



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, ERP, RPP, MNDC

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for an order requiring the landlord to make repairs and emergency repairs to the rental unit, an order requiring the landlord to return the tenant's personal possessions, and a monetary order for money owed or compensation for damage or loss.

The parties attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter- At the outset of the hearing, the tenant confirmed she was in the process of moving out the rest of her personal property, and had not lived in the rental unit for a month. The landlord submitted that she had seen some evidence of the tenant moving, but has not been given a notice from the tenant.

As the tenant submitted that she is vacating the rental unit, I amended her application to exclude a request for repairs and emergency repairs, as these are issues relating to an ongoing tenancy.

The hearing proceeded on the tenant's monetary claim and her request for a return of her personal property.

Preliminary matter#2- When reviewing the evidence submissions of the parties, the landlord claimed not to have received all the tenant's evidence, including the photographs.

I allowed the hearing to proceed and the evidence issues would be dealt with later.

I note that the tenant requested an adjournment of the hearing in order to gather more evidence; however, the tenant did not present a compelling reason to adjourn and the landlord was present and ready to proceed with the hearing. I therefore declined the tenant's request for an adjournment.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation and to a return of her personal property?

Background and Evidence

The tenant submitted that the tenancy started in February 2014, that monthly rent varies between \$900.00 and \$950.00, and that she paid a security deposit of \$475.00.

The landlord submitted that the tenancy began on February 1, 2014, that monthly rent listed in the written tenancy agreement is \$950.00, and that she gave the tenant a break in the monthly rent during the winter, reducing the monthly rent to \$900.00.

The tenant's monetary claim is \$350.00, comprised of moving costs of \$175.00 and a bedframe for \$175.00.

The tenant's relevant documentary evidence included a handwritten statement of her claim, photographs, and a witness statement.

In support of her claim for moving costs, the tenant submitted that the state of the rental unit required her to move out. In particular, the tenant submitted that the rental unit was infested with mold, and it presented a health hazard for her and her family. The tenant submitted further that the mold caused her son to be admitted to the hospital multiple times in order to be attached to a ventilator.

The tenant submitted further that the landlord has failed to address her complaints about the mold, and therefore, it was necessary to move.

As to the moving costs, the tenant submitted that she received a quote from a moving company, but elected to use a rental truck, for \$39.59 daily rate for 2 days, plus mileage and insurance.

As to the tenant's claim for a bedframe, the tenant submitted that she had to place the metal bedframe outside of the home so that her son would not trip over it, and from there, the landlord disposed it. The tenant submitted further that the landlord later returned the bedframe, but it had rusted and was not usable.

As to the tenant's request for a return of her personal property, the tenant was not specific as to what property she referred, with the exception of the bedframe. The tenant submitted that the bedframe was taken and the landlord threw it back to her rental unit.

Landlord's response-

The landlord submitted that the tenant's lack of housekeeping caused the mold, as the tenant never ventilated the rental unit and the home was completely cluttered and filthy. The landlord submitted that the tenant contacted them immediately after the tenancy began to complain about the moisture in the rental unit, after which they supplied the tenant with a dehumidifier. The landlord also instructed the tenant to run the extractor fans to reduce moisture, but she refused, according to the landlord. The landlord submitted further that she that the tenant would not allow entry to the rental unit in order to address the issues, despite proper notices and the requests of the tenant.

The landlord submitted further that the tenant took her bed off the bedframe and placed her mattress on the floor, against the wall, further impeding ventilation.

As to the tenant's claim for a bedframe, the landlord submitted that the tenant put the bedframe out in the yard with bags of garbage, and they assumed the tenant was getting rid of it. The landlord submitted that they placed the bedframe in a covered space for two weeks, and returned it to the tenant, after she failed to retrieve it.

The co-landlord submitted that he built the tenant a bedframe, but that she refused to use it.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that occurs as a result of their actions or neglect, so long as the applicant verifies the loss, as required under section 67. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss.

Moving costs-

As to the tenant's claim for moving expenses, these are choices the tenant made when ending her tenancy, on how to facilitate her moving, and I find the tenant has failed to provide sufficient evidence to hold the landlord responsible for choices made by the tenant.

Additionally the tenant has not submitted any evidence showing a loss or proven that she will ever suffer a loss for moving expenses. I therefore dismiss her request for \$175.00.

Bedframe costs-

I find the tenant submitted insufficient evidence that the landlord ruined her bedframe or that she suffered a loss.

I therefore dismiss her claim for \$175.00 for loss of a bedframe.

Return of the tenant's personal possessions-

As the tenant was not able to identify any personal property that the landlord has retained, especially in light of the fact the tenant has not yet fully vacated, I dismiss the tenant's request for such order.

Due to the above, I dismiss the tenant's application, without leave to reapply.

As I have dismissed the tenant's application, I did not find it necessary to adjourn the hearing in order for the tenant to re-serve her evidence to the landlord.

Conclusion

The tenant's application is dismissed, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 27, 2015

Residential Tenancy Branch

