



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the tenant seeking the return of double their pet deposit, a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and the recovery of the filing fee. Neither party submitted any documentary evidence for this hearing.

Issue to be Decided

Is the tenant entitled to any of the above under the Act, regulation or tenancy agreement?

Background, Evidence and Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, **the tenant must prove their claim.** When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The tenant's testimony is as follows. The tenancy began on July 1, 2013 and ended on September 15, 2014. The tenants were obligated to pay \$1700.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$850.00 security deposit and a pet deposit of \$850.000.

I address the tenants' claims and my findings around each as follows.

Tenants First Claim - The tenants stated that the landlord returned the security deposit but has yet to return the pet deposit. The tenants stated that they are seeking the return of double the amount.

The landlords dispute this claim. The landlords stated that there is not a pet deposit to return because one was never provided. The landlords stated that they have reviewed their accounting records and stated that the tenants had not posted a pet deposit. The landlords stated that the tenant was to provide one by June 20, 2013, but never did. The landlords stated that they have told the tenants on numerous occasions, that if the tenants have proof of payment they would return the amount immediately. Based on the disputing testimony of the landlord, and in the absence of any documentary evidence to support their claim, I find this portion of the tenants' application has no merit and accordingly; I dismiss this portion of their application.

Tenants Second Claim – The tenants are seeking \$752.70 as compensation for the loss of quiet enjoyment. The tenants are asking for the return of 13 days rent from September 3-15, 2014. The tenants stated that they had a very good relationship with the landlords until they gave their notice that they would be moving out. The tenants stated that the landlords had entered their unit without authorization to show the unit to potential new renters. The tenants stated that the landlord gave access to the unit to painters and other tradesman without notice while the suite was still in their possession. The tenants stated that they felt the landlord was disrespectful and did not meet their obligation under the Act.

The landlords dispute this claim. The landlords stated that they agreed to end the tenancy on September 15 even though the rent was due on the first of each month. The landlords stated that they advised the tenants that they would make all efforts to rent the unit for mid-month and try to mitigate any costs to the tenants. The landlords stated that they only showed the unit to two parties within a two hour window on a Saturday in September. The landlords stated that they had given 48 hours' notice to the tenants to do this. The landlords stated that they were able to rent the unit for September 20, 2014 to one of those two parties.

The landlords stated that the inconvenience to the tenant was non-existent. The landlords stated that they reimbursed the tenants for the last 12 days of September as they had rented the unit. The landlords stated that the tradesman had entered the unit after the tenants had removed all of their items and on the verbal agreement of the female tenant. The landlords stated that they feel they not only met their obligation under the Act, but went above and beyond to accommodate the tenants.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. **To prove a loss the applicant must satisfy all four of the following four elements:**

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed

After hearing the testimony of both parties it was clear to me that the tenants failed to satisfy any of the four grounds as noted above. I find that the tenants' actions were almost restrictive in nature from allowing the landlord to conduct their business. I find that the tenants' actions were more of a detriment than an assistance to rent the unit out as soon as possible, which is what they asked the landlord to do for them. I also find that the landlords conducted themselves in accordance with the Act and did everything they could do to assist the tenants. Based on all of the above, I must dismiss this portion of the tenants' application.

The tenants have not been successful in their application.

Conclusion

The tenants' application is dismissed in its entirety.

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: May 25, 2015

Residential Tenancy Branch

