



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This was the hearing of an application by the tenant. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord called in and was assisted by a translator.

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

Background and Evidence

The tenant alleged in her application filed on October 6, 2014 that:

On Oct 2, Landlord (name) threw away my personal stuff from the fridge and storage room. She abused and threatened my friends and me. Changed the locker without authorization. During the renting period which from Sep 1. Everyday I lived in her house was suffering therefore I am asking to pay my rent fee back (2 months) also include the deposit. (reproduced as written)

In her application the tenant requested a monetary order in the amount of \$2,000.00.

The tenant submitted documentary evidence as well as some digital evidence that included several videos and photographs that were provided on a USB flash drive. The tenant's evidence was submitted to the Residential Tenancy Branch on April 24, 2015.

The landlord testified at the hearing that she had not received any evidence from the tenant, apart from the tenant's original application for dispute resolution and Notice of Hearing. The tenant did not provide any documents to show what steps she took to deliver her evidence to the landlord. At the hearing the tenant said that the documents

were mailed to the landlord. The tenant said that she was told by a post office employee that the landlord would receive the tenant's documents by the date of the hearing. The tenant said that she had been too busy to send the documents sooner. I advised the tenant at the hearing that I would exclude her evidence and it would not be considered on the tenant's application because it was sent to the landlord late and still had not been received by the landlord as of the date of the hearing.

The tenant said at the hearing that she rented a basement suite in the landlord's house along with two other tenants in September, 2014. She said that there was a confrontation with the landlord on October 2, 2014 that resulted because the landlord refused to allow her to use a refrigerator and because the landlord threw out some of her possessions. The tenant said she called the police; the police attended and advised her to move out. The tenant said that she moved out on October 2nd and the two other tenants continued to live in the rental unit.

The tenant said that her claim was for the return of rent that she paid and for compensation for her possessions that were destroyed. The tenant did not submit any list of the items she claimed to have lost; she said the evidence was in the form of pictures that she had submitted.

The landlord acknowledged that there had been an altercation with the tenant on October 2nd. She said that she was not aware that the tenant moved out immediately after the altercation. The landlord said that the two remaining tenants continued to occupy the rental unit until the end of December.

Analysis

The tenant filed her application on October 6, 2014, but she waited for more than six months before submitting her evidence to the Residential Tenancy Branch. She did not provide proof that she mailed her evidence to the landlord and I accept the landlord's testimony that, as of the time of the hearing she had received no evidence from the tenant. The landlord has had no opportunity to review or reply to the tenant's evidence and it would be unfair to the landlord to admit the evidence at this hearing. The tenant has not given any convincing reason why the evidence was not delivered in a timely fashion; I find that the landlord should not have to deal again with this dispute at a second hearing and I find that this matter should not be adjourned to permit the tenant to rectify her failure to serve her evidence before the hearing.

Based on the testimony of the tenant at the hearing I find that the tenant has not proved on a balance of probabilities that she has suffered any damage or loss arising out of the non-compliance or breach of a tenancy agreement or some provision of the *Residential Tenancy Act* or Regulation by the landlord. I dismiss the tenant's application without leave to reapply.

Conclusion

The tenant's application has been 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: May 13, 2015

Residential Tenancy Branch

