



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, LRE, MNSD, MNDC, O

Introduction

This is an amended application brought by the tenant requesting a monetary order in the amount of \$3200.00

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties and the witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses. The parties were informed that their witnesses were to be excluded from the hearing in a separate room until their testimony was required.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicant has established a monetary claim against the respondent, and if so in what amount.

Background and Evidence

This tenancy began on May 1, 2015 with a monthly rent of \$900.00 for a fixed term of one year.

The tenant vacated the rental unit fully by June 26, 2015.

The tenant and the tenant's underage son testified that the landlord acted in an aggressive manner towards the tenants on numerous occasions during the tenancy, and as a result she believes that she had a loss of use of enjoyment of the rental unit and should have her full rent of \$1800.00 returned.

She also stated that due to the landlord's actions she was forced to vacate the rental unit, and therefore she believes that the landlord should be paying her moving expenses of \$750.00 and \$200.00 for time spent finding a new place.

The applicant is also requesting the return of her full security deposit of \$450.00.

The landlord however denies all the tenants allegations, and he claims that it was the tenant that was harassing him and his wife.

The landlord's wife also testified that it was the tenant that acted inappropriately and that they in no way harassed the tenant while she was in the rental unit.

The landlord further testified that the tenant was subsequently arrested, and a peace bond was issued against the tenant on June 12, 2015, which required that the tenant have no further contact with the landlord, and prohibited her from attending at the rental unit and that is why she had to move out.

The landlord's believe this full claim should be dismissed.

Analysis

First of all I want to state that, near the end of the hearing, the applicant/tenant stated she had another witness present that she wanted to give testimony, however since I had no way of knowing whether that witness had been listening in to the testimony throughout the hearing it was my decision that I would not allow testimony from this new witness.

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

The applicant has made many allegations against the respondent, however other than the testimony of her underage son; the applicant has supplied insufficient evidence to prove those allegations.

Therefore, in this case, since it is basically just the applicant/tenant's word against that of the landlord/respondent it is my finding that the applicant has not met the burden of proving her claims against the respondent.

I therefore will not allow the applicants claim for the return of any rent, moving costs, or time spent finding a new place.

As far as the security deposit is concerned, the tenant has applied for the return of her security deposit; however the tenant did not give the landlord a forwarding address in writing, as required by the Residential Tenancy Act, prior to applying for dispute resolution.

Therefore at the time that the tenant applied for dispute resolution, the landlord was under no obligation to return the security deposit and therefore this application is premature.

At the hearing the tenant stated that the address on the application for dispute resolution is the present forwarding address; therefore the landlord is now considered to have received the forwarding address in writing as of today, July 15, 2015. The landlord therefore has 15 days from today's date to, either return the security deposit to the tenant, or apply for dispute resolution to keep the security deposit.

Conclusion

The tenant's application for the return of her security deposit is dismissed with leave to reapply, and the remainder of the claim is dismissed in full 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: July 15, 2015

Residential Tenancy Branch

