



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This is an application brought by the tenant requesting an Order for the return five months' rent of \$800.00 per month for a total of \$4000.00.

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

I also gave the applicant the opportunity to give evidence orally.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the tenant has the right to an Order for return of five months' rent.

Background and Evidence

This tenancy began on June 15, 2014 with a monthly rent of \$800.00, due on the first of each month.

The tenancy ended on July 30, 2015 pursuant to a one-month Notice to End Tenancy that was served on June 8, 2015.

The tenant testified that she believes that she should be reimbursed for five months' rent due to the fact that the landlord moved a fifth wheel onto the property, used her

electricity (although he did reimburse her for electricity used), and accessed the basement of the rental unit to do laundry.

The tenant further testified that when the landlord asked to put fifth wheel on the property, and asked to use the basement, she did not object as she thought that if she did the landlord would find some reason to evict her. She stated however that the landlord did not at that time threaten to evict her.

The tenant further stated that although she did allow the landlord onto the property and did allow the landlord access to the basement she feels that it was under duress and that is why she is requesting reimbursement of five months' rent for a total of \$4000.00.

Analysis

It is my decision that I will not allow the claim for reimbursement of rent because the tenant did not raise any objection to the landlords request to move a fifth wheel onto the property, use her electricity, and access the basement of the rental unit.

When I questioned the tenant as to why she would allow the landlord such access if she objected to it, she stated that, although she knew her rights under the Residential Tenancy Act, she felt that, if she attempted to enforce her rights, the landlord would find some reason to evict her, however the tenant also admitted that the landlord did not threaten to evict her if she did not allow him access.

Section 95(2) of the Residential Tenancy Act states:

95(2)(b) A person who coerces, threatens, intimidates or harasses a tenant or landlord
(b) in retaliation for seeking or obtaining a remedy under this Residential Tenancy Act commits an offence and is liable on conviction to a fine of not more than \$5 000.

Therefore if, as she claims, the tenant was aware of the provisions of the Residential Tenancy Act, she would be aware that the Act would not allow the landlord to retaliate against her for attempting to enforce her rights under the Residential Tenancy Act.

The tenant has provided evidence that shows that she was repeatedly late paying the rent, and that she was subsequently evicted for repeated late rent payments, and although the tenant may believe that the eviction was retaliation, Section 47(1)(b) the Act allows the landlord to end the tenancy for repeated late rent payments, and therefore the landlord was within his rights to do so.

Conclusion

This application 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: December 01, 2015

Residential Tenancy Branch

