



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Preliminary matter

During the hearing the male Tenant was asked not to interrupt a number of times and then he was put on mute because he could not control himself. Towards the end of the hearing the male Tenant had an emotional outburst that was offensive to the Landlord and the Arbitrator. Consequently the hearing was ended and the Arbitrator decided that the testimony and evidence provided was sufficient to make a decision. Further the Arbitrator decided that to continue the hearing would only insight the male Tenant more. The Hearing was concluded at approximately 60 minutes.

Introduction

This matter dealt with an application by the Tenant for compensation for damage or loss under the Act, regulations or tenancy agreement and for the return of the filing fee.

The Tenant said he served the Landlords with the Application and Notice of Hearing (the "hearing package") by registered mail on December 12, 2015. Based on the evidence of the Tenants, I find that the Landlords were served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Have the Tenants suffered a loss or damage under the Act, regulations or tenancy agreement and if so how much?
2. Are the Tenants entitled to compensation for the loss or damage and if so how much?

Background and Evidence

This tenancy started in October, 2012 as a month to month verbal tenancy. Rent was \$1,800.00 per month payable in advance of the 1st day of each month. The Tenant said they paid a security deposit of \$900.00 at the start of the tenancy. The Landlord said no security deposit was paid. No evidence was provided with regard to the payment or non-payment of the security deposit. The Tenants said no move in or move out condition inspection reports were completed. The Landlord said he did complete a move in condition inspection at the start of the tenancy. The Tenants agent said the Tenants did not give the Landlord a forwarding address in writing at the end of the tenancy. The Tenants said the tenancy ended on August 11 or 12, 2015 when the bailiff moved the Tenants out of the rental unit.

The Tenants' agent said the Landlord issued a Notice to End Tenancy to the Tenants which resulted in an eviction. The Tenants' Agent said the eviction was not legal as the Landlords' Notice to End Tenancy said a family member was moving into the rental unit and that was the reason the Tenants were evicted. The Tenants' Agent said a family member did not move in so it was an illegal eviction. The Tenants' Agent said the Tenants did not dispute the Notice to End Tenancy nor did the Tenants apply for a review consideration of the decision.

Further the Tenants' agent said they are now applying for \$8,300.00 of compensation from the Landlord for moving costs, hotel expenses, and storage fees because of the eviction. As well the Tenants' agent said they are also applying for the return of the security deposit and overpayment of the utility bills. The Tenants' Agent said they did not submit any corroborative evidence to support their claims because the Tenants do not understand the process and are not sophisticated people. As a result the Tenants are relying on their testimony as evidence to support their claims.

The male Tenant said the Landlords' son S.R. did not move into the rental unit after they moved out so it was an illegal eviction and the Landlords are responsible for their moving costs. Further the male Tenant said the Landlord did not provide a tenancy agreement and the Landlord did not give them receipts for rent payments and for the security deposit. The male Tenant continued to say that the Landlord also overcharged them for utilities.

The Tenants' agent said the Tenants have not provided a breakdown of the \$8,300.00 claim as the Tenants were in an accident and lost all their receipts pertaining to this application so the Tenants made an estimate of \$8,300.00 to cover their costs.

The Landlord said his son moved into the rental unit in October, 2015 so it was not an illegal eviction because the Notice to End Tenancy was completed as presented to the Tenants.

The Landlord called his son S.R. as a witness. Witness S.R. said he moved into the house in October, 2015 with his wife and child and two friends who live at the house part time. They are named Michelle and Steve.

The Tenants' agent asked the Witness S.R. what the last names of Michelle and Steve. The Witness S.R. was not sure what the last names were. The Tenants agent said the Witness S.R. did not know the last names of people living with him and inferred that the Witness' testimony may not be accurate.

Further the Landlord called a second witness T.M. a neighbour of the rental house to give testimony. Witness T.M. said that the Landlords' son S.R. moved into the rental house in September or October of 2015 he was not sure of the exact dated.

The male Tenant said the Witness T.M. had reported the Tenant before so he thought the witness may not like him and his testimony may be prejudice against the Tenants.

The Witness T.M. said S.R. move in and he is a good neighbor.

The male Tenant tried to get two witnesses on the phone an RCMP officer who attended the rental unit and a different neighbor K.C. The witness K.C. called in but then dropped off the phone and did not phone back. The RCMP did not call into the hearing.

As a result the Tenants had only their testimony that the Landlord's son did not move into the rental unit.

The Tenants started their closing remarks by saying the "rich get richer and the poor get poorer and that is what this process is about". Then the male Tenant started yelling and shouting obscenities uncontrollably at the Landlord. The Arbitrator requested the Tenant to calm down. The Tenant continued yelling so the Arbitrator closed the hearing and told the parties he had the information he need to make a decision.

Analysis

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

In this situation The Tenants have not provided any corroborative evidence to support their application and claims. The Tenants have not provided any paid receipts for their moving expenses, hotel costs or storage costs. As there is no prove a security deposit was paid or not and the Tenants have not provided an information of utility bills and whether the utilities were paid by the Tenants or the Landlord. In this situation the Tenants have not established rounds to be successful with their compensation claims.

Further in situations where there is no tenancy agreement and no evidence to support an applicant's claim it is unclear what the facts of the matter are. The Tenant said they paid a security deposit and the Landlord said no security deposit was paid. In these situations the burden of proving a claim lies with the applicant/Tenants and when it is just the applicants' word against that of the respondents/Landlords **that burden of proof is not met.** In this case the Tenants application is for a monetary claim of \$8,300.00. The Tenants have just estimated the claim and provided no corroborative evidence to support their application and claims. Consequently I find the Tenants have not established ground to be successful in their application. I dismiss the Tenants application without leave to reapply.

Conclusion

I dismiss the Tenants' application 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 05, 2016

Residential Tenancy Branch