



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenants stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on February 5, 2016. The landlord confirmed receipt of the package in this manner. The landlord stated that she was unable to serve the tenants with her submitted documentary evidence package as the tenant's had blacked out the mailing address portion of the tenants' application for dispute. The tenants confirmed that the mailing address was blacked out as they were uncomfortable in providing their mailing address to the landlord.

I accept the undisputed affirmed evidence of both parties and find that both parties were properly served as per sections 88 and 89 of the Act. I accept the evidence of the landlord and find that the tenants in blacking out their mailing address the landlord was unable to provide them with copies for the hearing. I accept the evidence submitted by the landlord. Both parties were notified that where possible the landlord's documentary evidence would be described in detail if required during the hearing.

Both parties are deemed properly served with the notice of hearing package and the submitted documentary evidence as per section 90 of the Act.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for compensation for loss?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties agreed that tenancy began on December 15, 2013 on a fixed term tenancy ending on December 31, 2014 and that at the end of this time the tenancy will continue on another fixed length of time, unless the tenant gives written notice to end the tenancy. The monthly rent was \$1,800.00 payable on the 1st day of each month. A security deposit of \$900.00 and a pet damage deposit of \$300.00 were paid.

The tenants' seek a monetary claim of \$2,032.62 which consists of:

\$975.00	Cost of overlap in rent paid at new tenancy
\$430.08	Cost of Frogbox Rental
\$78.92	Cost of Uhaul Rental
\$548.62	Cost of Movers

Both parties agreed that the tenants provided written notice to end the tenancy in an email dated January 3, 2015 to end the tenancy on January 31, 2015.

The tenants provided affirmed testimony that the landlord applied "duress" to the tenants to end the tenancy. The tenants clarified that through inaction or neglect the landlord failed to properly provide a safe environment at the rental premises and forced the tenants to provide written notification to end the tenancy. The tenants stated that an application for dispute to resolve those disputes during the tenancy had been filed by the tenants, but was cancelled by the tenants because of the length of time before the scheduled hearing date.

The landlord disputed the tenant's claim stating that no agreement was made with the tenants after the end of the original fixed term and that the tenants' had provided their written notice to end the tenancy on January 31, 2015.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the

party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, the tenants seek monetary compensation for moving costs of \$2,032.62. The tenants stated that the landlord failed to provide a safe environment during the tenancy which resulted in the tenants giving notice to end the.

I accept the evidence of both parties and find based upon the evidence submitted that the tenants have failed to establish a claim for moving costs. Although the tenants claim that they were under “duress” to end the tenancy, the tenants confirmed that an application for dispute was filed and then cancelled due to the lengthy wait time before the scheduled hearing time. The tenants provided undisputed affirmed evidence that they chose to provide notice to end the tenancy in an email on January 3, 2016 to end the tenancy on January 31, 2015 which was accepted by the landlord. The tenants have failed to provide sufficient evidence that the landlord caused through neglect or inaction that the tenants suffered the costs of moving.

Conclusion

The tenants’ application is dismissed.

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: September 20, 2016

Residential Tenancy Branch