



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for compensation for loss or other money owed and to recover the filing fee from the landlord.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Issue to be Decided

Is the tenant entitled to a monetary order for compensation for loss or money owed?

Background and Evidence

The tenant testified that they seek monetary compensation for the landlord's unlawful eviction. The tenant stated that they entered into a tenancy agreement with the landlord and paid the required security deposit.

The tenant testified that before they took possession of the rental unit the landlord contacted them and asked them to come and speak with them. The tenant stated that the landlord then informed them that they were cancelling the tenancy agreement and returned the security deposit. The tenant seeks compensation in the amount of \$1,500.00, as they did not agree to end the tenancy.

The landlord's agent testified the tenant was not evicted and the tenant did not move into the rental unit. The agent stated that they contact the tenant before the tenant was to take possession of the rental unit, as they were concerned that the tenant might not be the right fit for the rental premises. The agent stated after they discussed their concerns with the tenant, both parties agreed to void the agreement, which was signed by the parties. Filed in evidence is a copy of the tenancy agreement.

The tenant argued that they were under duress at the time they agreed to cancel the agreement. The tenant acknowledged that they were not threatened or forced in anyway by the landlord.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the tenant has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

I am satisfied that the parties entered into a tenancy agreement on February 9, 2016. However, I am satisfied that the parties agreed to cancel that agreement on February 14, 2016. I find the tenant has provided no evidence that they were force to cancel the agreement, such as threats of violence. I find the tenancy legally ended by mutual agreement on February 14, 2016. I find the tenant has failed to prove a violation of the Act by the landlord.

Therefore, I dismiss the tenant's application. Since the tenant was not successful with their application they are not entitled to recover the filing fee from the landlord.

Conclusion

The tenant's 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: October 14, 2016

Residential Tenancy Branch