



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 tenants' claim for monetary compensation. One tenant and the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. The landlord stated that he could not open the tenants' electronic evidence, and I therefore did not admit or consider that evidence. Both parties were given full opportunity to give affirmed testimony and present their admissible evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation as claimed?

Background and Evidence

On September 29, 2015, the landlord and the tenants signed an agreement for a tenancy to commence on October 1, 2015. Additional terms were added to the tenancy agreement, including a term that the landlord would paint the walls and stairway to the laundry. The tenants paid the landlord \$2,200.00 for October 2015 rent, and \$2,200.00 for a security deposit and a pet deposit.

On October 20, 2015 the parties signed a mutual agreement to end the tenancy, effective October 20, 2015. The tenants hand-wrote notes on the mutual agreement to end tenancy as follows: "Landlord and tenant mutually agree to void their tenancy agreement and the landlord agrees to return ½ (one half/\$1100) of the Octobers months rent and the damage deposit and pet deposit to the tenants for a total amount of \$3300 CAD. "

The landlord reimbursed the tenants \$3,300.00 as agreed. On February 8, 2016, the tenants filed their application for monetary compensation of \$1,800.00 for their moving costs, and for stress.

The tenants submitted that they ended the tenancy because the rental unit was not ready for them to move into it by October 20, 2016. The tenants submitted that the landlord had not done the painting or made the house liveable. In the hearing the male tenant stated that they felt taken advantage of, and felt that they did not have a choice but to sign the mutual agreement to end tenancy in order to get some of their funds back. The tenants did not view the mutual agreement to end tenancy as a full and final settlement that barred the parties from making further monetary claims.

The landlord strongly objected to the tenant's statement that they had no choice but to sign the mutual agreement. The landlord's submitted was that the mutual agreement was a full and final agreement. The landlord stated that the tenants were the ones who brought the mutual agreement to the landlord and they were the ones who proposed that the landlord keep \$1,100.00 representing half a month's rent. The landlord pointed out that because there was a full and final settlement, they did not file a claim of their own.

Analysis

I find that the mutual agreement to end tenancy is a full and final agreement that bars the parties from making any further claims.

The tenants were the drafters of the handwritten terms added to the mutual agreement. There is an ambiguity in whether the effect of "voiding" the tenancy agreement should be interpreted as a full and final settlement or not. When a term of an agreement contains an ambiguity, the legal doctrine of *contra proferentem* provides that the preferred meaning should be the one that works against the interests of the drafter of the agreement.

In this case, I find that the meaning that the mutual agreement is a full and final settlement is the meaning that works against the tenants' claim for monetary compensation. I therefore find that the mutual agreement was a full and final settlement that bars the parties from making any further claims.

Conclusion

The mutual agreement to end tenancy signed by the parties on October 20, 2016 is a full and final settlement that bars the tenants from claiming compensation against the landlord.

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: October 21, 2016

Residential Tenancy Branch