



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, PSF, RPP, LRE, OPT, LAT, O

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;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65;
- an Order of Possession of the rental unit pursuant to section 54;
- other unspecified remedies;

Both parties participated in the teleconference. Both parties gave affirmed evidence. Both parties stated that they served each other documentation for this hearing but neither party was able to produce any supporting evidence that they had. Residential Tenancy Branch Rules of Procedure 3.5 and 3.16 require the applicant and respondent to provide sufficient evidence to the Arbitrator to satisfy them that the other party was served with their documentation. In the matter before me, neither party has provided sufficient evidence to satisfy that they served the other party their documentary evidence and therefore was not considered in making this decision. This ruling was explained to both parties and both parties indicated that they understood. It was further explained that their testimony would be considered in making this decision.

Preliminary Issue

Both parties confirmed that the tenant no longer resides in the unit and that the only outstanding issue to be determined by this hearing is whether the tenant is entitled to a monetary award. The hearing proceeded and completed on that basis.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as compensation for loss or damage under the Act, regulation or tenancy agreement?

Background and Evidence

The tenant gave the following testimony. The tenancy began on or about December 21, 2016. Rent in the amount of \$850.00 is payable in advance on the first day of each month. The tenant testified that on May 5, 2017 the landlord and eight men came into her unit when she wasn't home and removed all her items and left them outside. The tenant testified that the landlord changed the locks and illegally removed her and her belongings. The tenant is seeking \$8403.16 for the replacement of goods and \$11596.84 for emotional distress and anxiety.

The landlords' agent gave the following testimony. The agent testified that the tenant was having problems paying the rent on time. The agent testified that the tenant had advised the landlord in March 2017 that she was making arrangements to move out. The agent testified that the tenant moved her belongings herself on May 5, 2017 and left them in the landlords yard and covered them with a tarp. The agent testified that the locks were not changed, that the landlord did not evict the tenant and that the tenants' belongings are still on the property. The agent testified that the tenant has been coming periodically to pick up several items at a time. The agent testified that the tenant is more than welcome to pick up what is left on the property "even though most of it is just garbage". The agent testified that the landlord should be given a monetary award for "all the drama the tenant has caused"

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.** The applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The tenant has failed to satisfy me that she has provided sufficient evidence to satisfy the four grounds listed above as required under section 67 of the Act. Based on the insufficient evidence before me, I must dismiss this application in its entirety.

Conclusion

The tenants' application is dismissed in its entirety.

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: June 19, 2017

Residential Tenancy Branch