



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, LRE, MNDC, FF

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;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the notice of hearing package and the submitted documentary evidence. Neither party raised any service issues. As both parties have attended and confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am sufficiently satisfied that both parties are deemed served as per section 90 of the Act.

Preliminary Issue(s)

At the outset both parties confirmed that the tenant has vacated the rental unit on either June 29th or June 30, 2018. As such it was clarified with both parties that the tenant's request to dispute an additional rent increase for August 1, 2018 and the request to suspend or set conditions on the landlords' right to enter are not required. As such, these portions of the tenant's application are cancelled and require no further action.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for money owed or compensation and recovery of the filing fee?

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.

The tenant seeks a clarified monetary claim of \$800.00 which consists of recovery of \$200.00 per month for the 4 month period from February to May 2018. The tenant claims that the landlord's demanded an illegal rent increase in December 2017 for an additional \$200.00 per month.

The landlords dispute this claim stating that the tenant's girlfriend had moved in without notification to the landlords. The landlords as a result requested an increase to the monthly rent of \$200.00 for the additional occupant. The landlords claim that a verbal agreement was made in which the tenant paid the additional amount every month. The landlords argued that at no time has the tenant disputed the increase or given notification that the rent increase was not agreed to.

The tenant disputed that no agreement was made with the landlord to pay the additional \$200.00 rent increase.

The landlords argued that every month a rent receipt was issued to the tenant and that the new agreement was not formalized in writing at the request of the tenant.

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 tenant has claimed that an illegal rent increase occurred in which the monthly rent was increased by \$200.00. The landlords have disputed this claim stating that a verbal agreement was made after the tenant's girlfriend moved into the rental premises without notification. The tenant argued that at no time did he accept the rent increase, but the landlord had received the increased \$200.00 payment each month for which a receipt was issued. The landlords argued that at no time has the landlord reported or notified the landlords of a dispute over the \$200.00 rental increase. The tenant was unable to provide sufficient evidence that a dispute over the rental increase was given to the landlords during the tenancy. Both parties rely primarily on their direct testimony during the hearing.

The onus or burden of proof lies with the party who is making the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. In this case, I find on a balance of probabilities that I prefer the evidence of the landlords over that of the tenant. The tenant has failed to establish a claim for an "illegal" rent increase. I find that the tenant accepted the increase and paid it monthly each month. The tenant did not provide sufficient evidence of any dispute or notification to the landlord that he was unwilling to pay the rental increase. The tenant's monetary claim is dismissed.

Conclusion

The tenant's application is dismissed 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 11, 2018

Residential Tenancy Branch