



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT FFT

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; and
- authorization to recover the filing fee from the landlord pursuant to section 72.

The landlord did not attend this hearing which lasted approximately 15 minutes. The phone lines were left open for the party to call in to the teleconference for the full duration of the hearing. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that they served the application for dispute resolution dated April 19, 2018 and evidence on the landlord by registered mail on or about that date. The tenant provided a Canada Post tracking number in support of their submission. Based on the undisputed evidence I find that the landlord was deemed served with the tenant's application package in accordance with sections 88, 89 and 90 of the *Act* on April 24, 2018, five days after mailing.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed? Is the tenant entitled to recover the filing fee for their application?

Background and Evidence

The tenant gave undisputed evidence regarding the following facts. This periodic tenancy began in April, 2011 and ended on March 10, 2018. The tenant submits that

there was a previous hearing where a decision was rendered allowing the tenants to remain in the rental unit until April 1, 2018. No documentary evidence was provided in support of this submission.

The tenant testified that they were barred access to the rental unit by the landlord and lost access to their personal possessions. The tenant seeks a monetary award of \$30,000.00 against the landlord. The tenant wrote the following submission explaining their claim:

Our eviction went to arbitration we were granted a stay at the house until April 1, 2018. We have bin denied access to the home, and property where we stay and have are belongings. I have 10,000 in power 500 gates/ wood stove electric garage door opener misc 10,000 in moving fees. I installed 200 AMP service, 10,000. I place concrete and landscaped the property. I need my recetes for all my year living there 2011-2018.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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. The claimant also has a duty to take reasonable steps to mitigate their loss.

Pursuant to the Residential Tenancy Branch Rule of Procedure 6.6 the onus to prove their case is on the applicant.

I find that there is insufficient evidence in support of the tenant's claim for a monetary award. The tenant claims that they were barred access to their rental suite but I find there is no documentary evidence in support of their submissions. There is no correspondence between the parties showing that the tenants were denied access. It is reasonable to expect that there would be some communication between the parties if the tenant was denied access to the rental unit. The tenant claims that they had possessions in the rental unit valuing \$10,000.00 but has provided no documentary evidence in support of their claim. The tenant did not provide an itemized list of

possessions, no receipts or invoices from their original purchase or replacement costs, nor did the tenant articulate what items were lost. The tenant also claims for various work, improvements and fixtures purchased or installed on the rental suite but has provided no documentary evidence in support.

I find that the tenant's application is without any substantive evidentiary basis. The documents submitted by the tenant are poorly drafted typed statements rife with spelling and grammatical errors alleging loss. I do not find that the tenant's evidence to be sufficient to show on a balance of probabilities that they have suffered any loss such that they are entitled to a monetary award.

I dismiss the entirety of the tenant's application without leave to reapply as I find there is insufficient evidentiary support of their claims.

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: October 25, 2018

Residential Tenancy Branch