



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDCT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Preliminary Issue

At the outset of the hearing the tenant advised that they have moved out and that they are only pursuing the monetary portion for this hearing. The hearing proceeded and completed on that basis.

Issue to be Decided

Are the tenants entitled to a monetary order as compensation for loss or damage under the *Act*, regulation or tenancy agreement?

Background and Evidence

The tenant gave the following testimony. The tenant testified that the landlords were abusive, unfair and aggressive during their entire three year tenancy. The tenant testified that the landlord would yell at her whenever she had family and friends over to the point where she was embarrassed to have guests over. The tenant testified that the landlord purposely dragged chairs across the floor at 4:30 in the morning and would stomp back and forth to bother her. The tenant testified those \$300.00 x 37 months = \$11,100.00 is fair compensation for dealing with the landlords.

TP gave the following testimony. TP testified that the tenants were the ones in fact very abusive and aggressive. TP testified that the tenant would have numerous guests that would drink and smoke in the unit despite a no smoking clause in their tenancy agreement. TP testified that the tenants were very difficult to deal with and that they could not be approached about anything. TP testified that the tenants would video record the landlord and try to instigate a confrontation. TP testified that his mother gets up for work at 4:30 a.m. and that all she did was make tea and then leave. TP adamantly disputes the tenants claim and feels their application should be dismissed.

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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, 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, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

It was very apparent that the relationship between the two parties is an acrimonious one. Both parties made allegations of the other being aggressive and difficult to deal with. The tenant has requested \$11,100.00 in compensation however they have not provided sufficient evidence to satisfy any of the four factors listed above and therefore

failed to meet the requirements of Section 67 of the Act, accordingly; I dismiss their application in its entirety.

Conclusion

The tenants' application is dismissed in its entirety 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: September 25, 2018

Residential Tenancy Branch