



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNDL-S, MNRL-S, FFL

Introduction

This hearing dealt with the Landlord's Application filed under the *Residential Tenancy Act*, (the "*Act*"), for a monetary order to recover unpaid rent, for compensation under the *Act*, for compensation for damages, for permission to retain the security deposit, and to recover the cost of the filing fee for this application. The matter was set for a conference call.

The Landlord attended the hearing and was affirmed to be truthful in her testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified she served the Tenant with the Notice of Hearing documents by Canada Post Registered mail, sent on January 27, 2019, the Landlord provided a Canada post tracking number was provided as evidence of service. I find that the Tenant had been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matter- Caution

The Landlord was cautioned three times during the hearing regarding the requirement of the claimant to present their evidence, as well as testify to the particulars of the claim.

Section 7.4 of the Residential Tenancy Branch Rules of Procedure states the following:

“3.14 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party’s agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.”

This Arbitrator prompted the Landlord, no less than six times, to speak to each section of her claim and present all relevant evidence. The Landlord remained unable to testify to the details of her claim throughout these proceedings.

Issues to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to monetary compensation for damages under the *Act*?
- Is the Landlord entitled to retain the security deposit?
- Is the Landlord entitled to the return for their filing fee for this application?

Background and Evidence

The Landlord testified that the tenancy began around mid-July 2017, rent was \$2,850.00 a month, and the Landlord had been given a half month rent as a security deposit. The Landlord was asked to confirm the dollar amount she was holding in a security deposit, the Landlord replied, “a half month rent.” When asked, the Landlord testified that no written tenancy agreement had not been submitted into evidence.

The Landlord testified when asked, that the move-in inspections had been conducted by the Landlord without the Tenant present and that a copy of the document had been left for the Tenant to sign but that the Tenant had refused to sign the move-in inspection report.

The Landlord testified that the Tenant gave notice to end the tenancy as of December 31, 2019 and only paid half a month rent for December 2018, telling the Landlord that she could apply the security deposit to the last month. The Landlord testified that she took possession of the rental unit on January 1, 2019.

When asked, the Landlord testified that the move-out inspections had been conducted by the Landlord without the Tenant present, as the Tenant had refused to attend. The Landlord submitted a copy of the move-in/move-out inspection report, signed by the Landlord, 61 pictures, and four videos of the rental unit into documentary evidence.

The Landlord is claiming for:

- Fines & Move-in/Move-out fess \$1,163.35
- Unpaid rent Dec, 2018 \$1,425.00
- Cleaning \$380.00
- Replace Fridge door (estimate) \$2,599.52
- Moving Company \$485.00
- Damage repair \$1975.00
- Blind Replacement \$1028.00
- Kitchen sink parts \$67.03

The Landlord testified that the Tenant owes her for \$1,163.35 in unpaid fines. When asked the Landlord could not testify to the breakdown (dates, amounts, and reasons) of fines received by the Tenant. The Landlord submitted a five-page screenshot of an email listing by-law fines into documentary evidence.

The Landlord testified that the Tenant did not clean the rental unit at the end of the tenancy and that the Landlord had a cleaning service come in to complete the cleaning at the cost of \$380.00. When asked the Landlord could not offer testimony as to what needed to be cleaned or how many hours of cleaning were required. The Landlord submitted an invoice for the cleaning into documentary evidence.

The Landlord testified that the Tenant had left a lot of personal property behind in the rental unit at the end of the tenancy and that the Landlord had to pay a moving company to remove the property and dispose of it at the cost of \$485.00. When asked the Landlord could not offer testimony as to details of what property had been left in the rental unit, or how long it took for the property to be removed.

The Landlords testified that the Tenant damaged the fridge door during the tenancy and that the door needed to be replaced. When asked, how the Tenant had damaged the

fridge, the Landlord testified that the Tenant had put holes in the fridge door. The Landlord was unable to offer testimony as to the age of the fridge, or why the fridge door could not be repaired. The Landlord testified that she received a quote to have the fridge door replaced for a cost of \$2,599.52.

The Landlord was asked to testify and present her evidence regarding her claim for \$1,975.00 in drywall repair; the Landlord testified that she had submitted a quote for the cost of the work into documentary evidence. When asked to explain what needed to be repaired the Landlord was unable to offer any testimony regarding what repairs had been needed and told this Arbitrator to look at the pictures in her evidence package. The Landlord submitted a copy of an email for the cost of the work into documentary evidence.

The Landlord was asked to testify and present her evidence regarding her claim for \$1,028.00 to replace window blinds; the Landlord answered that she had “no” testimony to offer and directed this Arbitrator to look at the pictures she submitted. The Landlord submitted a copy of an email for the estimated cost of new blinds into documentary evidence.

The Landlord was asked to testify and present her evidence regarding her claim for \$67.03 for parts for the kitchen sink; the Landlord answered that she had “no” testimony to offer and again directed this Arbitrator to look at the pictures she submitted. The Landlord submitted a copy of an invoice into documentary evidence.

Analysis

Based on the evidence before me, the testimony, and on a balance of probabilities I find that:

Throughout these proceedings, each time this Arbitrator tried to test the evidence or ask for clarification, the Landlord was unable to testify to the details of her claim.

Furthermore, in the absence of documentary evidence containing the Tenant’s signature, or documentary evidence to show that any type of exchange took place between these parties, combined with the Landlord’s inability to testify to details of this tenancy, I find that the Landlord has not provided sufficient evidence to prove to me that a tenancy existed between these parties.

For this reason, I find I must dismiss the Landlord’s claim in its entirety.

Conclusion

The Landlord's 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: May 10, 2019

Residential Tenancy Branch