



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, FF.*

Introduction.

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*. The tenant applied for a monetary order for compensation for being rendered homeless when the landlord ended the tenancy and for the cost of moving and other expenses associated with moving. The tenant also applied for compensation for emotional and mental stress from interactions with the landlord.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord stated that she did not receive evidence from the tenant. The tenant stated that she had mailed the evidence package to the landlord but did not file evidence to support her testimony. Therefore, the tenant's evidence was not used in the making of this decision.

Issues to be decided

Is the tenant entitled to compensation?

Background and Evidence

The parties provided contradictory testimony during the hearing. The tenant stated that on January 28, 2020 she entered into a written tenancy agreement with the landlord for a tenancy that was due to start on March 01, 2020. The landlord stated that she did not enter into a tenancy agreement with the tenant. She agreed she intended to allow the tenant to rent her mother's rental unit but changed her mind when the tenant refused to pay a security deposit.

The tenant stated that the landlord agreed to waive the requirement of a security deposit but did not file documents to support her testimony.

The tenant stated the landlord provided her with keys and allowed her to move her belongings into the rental unit in early February 2020. The tenant added that one week before the tenancy was due to start the landlord requested a \$500.00 deposit and the tenant refused to pay. The tenant alleged that the landlord had told her at the time of signing the agreement that she was not required to pay a deposit. The tenant testified that at that time, the landlord informed her that she would not be allowed to move in.

The tenant is claiming compensation in the amount of \$15,000.00 for the inconvenience, stress and the cost of being homeless and having to find and move to a new rental unit.

Analysis

The tenant filed a copy of a signed tenancy agreement into evidence but since she did not file proof of having served a copy of her evidence on the landlord and the landlord denied having signed a tenancy agreement, I am unable to use the tenant's evidence in the making of this decision. In addition, the agreement filed into evidence was missing vital information.

Regarding the security deposit, the parties offered contradictory testimony. The tenant stated that the landlord had verbally agreed to waive the payment of a security deposit and the landlord denied that she had waived this requirement.

In the case of verbal agreements, I find that when verbal terms are clear and when both the landlord and tenant fully agree on the interpretation, there is no reason why such terms can't be enforced. However, when the parties are in dispute about what was agreed-upon, then verbal terms by their nature are virtually impossible for a third party to interpret for the purpose of resolving a dispute that has arisen.

Moreover, it is important to note that in a dispute such as this, the two parties and the testimony each puts forth, do not stand on equal ground. The reason that this is true is because one party must carry the added burden of proof. In other words, the applicant, in this case the tenant, has the onus of proving, during these proceedings, that the claim is justified. When the evidence consists of conflicting and disputed verbal testimony, then the party who bears the burden of proof will not likely prevail.

For this reason, without proper documentation I am not prepared to interpret whether a tenancy agreement existed between the parties. I will give the tenant the benefit of the doubt and dismiss this application with leave to reapply.

Conclusion

The tenant's application is dismissed with 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: May 14, 2020

Residential Tenancy Branch