

DECISION

Dispute Codes CNC, ERP, MNDC, RP, MNR, OPC, OPR, FF

Introduction

This hearing dealt with cross applications. The tenant seeks an Order to Cancel the Notice to End Tenancy for Cause, an Order to force the landlord to make Emergency Repairs and a Monetary Order for compensation for repairs and cleaning she has done.

The landlord seeks an order of possession and a monetary order for unpaid rent and loss of income and damages to the rental unit caused by the tenant, and an order for the tenant to follow the Act. This matter was first scheduled for teleconference hearing on February 28, 2011. Both the landlord and the tenant called in on that day. After some preliminary discussions both parties requested and required this matter to be adjourned so that they could exchange more relevant documentary evidence and both parties agreed that possible resolution discussions could occur. The adjournment was granted and the hearing re-commenced on March 21, 2011. A resolution was not achieved and both parties attended by teleconference today to reconvene the dispute resolution hearing. Both parties gave affirmed evidence.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, regulation or tenancy agreement.

Background and Evidence

The tenancy began on or about June 2010. Rent in the amount of \$475.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$250.00. Both parties gave evidence that a move in inspection was not done nor requested by either party.

Both parties provided oral and some documentary evidence. Dealing with the landlords application first, he was unable to clearly explain how much rent was unpaid and from what time period. He also was unable to give any documented proof of the costs associated with the damage he claims the tenant made to the rental unit. He was unable to provide receipts, invoices or bills that would substantiate his claim. As for seeking to an Order to make the tenant follow the Act, he was unable to prove his claim. Through his own testimony, he contradicted himself and was unclear about dates, costs or events.

As for the tenant's application, she claimed that she had undertaken to make many repairs and cleaning of the rental unit. In her own testimony she explained that she had not received the authority to do this, written or otherwise. She was unable to provide any receipts or bills to substantiate her claim. She was also seeking a remedy for lack of heat in the house. The landlord provided a letter from other tenants in the home that disputed that there was a heating problem.

Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove 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 the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. Both parties would offer a version of an event, and then later change many of the details of that same event. The documentary evidence provided was irrelevant or not helpful. I find that both parties were contradictory and unreliable in their testimony.

Conclusion

I dismiss the tenant's application in its entirety.

I dismiss the landlord's application in its entirety.

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: March 21, 2011.

Residential Tenancy Branch