



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for a monetary order for \$983.78.

Background and Evidence

On January 10, 2011 a fire occurred at the rental unit.

The applicant testified that:

- At the time of the fire they had their own insurance that would have covered alternate accommodation for them while the rental unit was being repaired however they chose not to use that insurance because they could not afford the \$500.00 deductible.
- Although they had not paid their \$917.00 rent for the month of January 2011, their truck had broken down and therefore they paid for repairs for the truck and did not have the money available to pay the deductible on their insurance.
- They therefore chose to stay in the rental unit while it was being repaired and although they have already been given compensation of 1 1/2 months rent (\$1375.50) they believe they should also receive a further \$983.78 compensation for loss of use and excess Hydro costs.

Analysis

It is my decision that I will not allow this claim because the tenants did not take reasonable steps to mitigate their loss at the time of the fire.

Under questioning the tenant admitted that, had they used their insurance, they would have suffered no loss other than the \$500.00 deductible.

The tenants rent is \$917.00 per month, and since they had not paid their January 2011 rent, they should have had sufficient funds to pay the deductible on their insurance, however the tenant testified that they chose instead to repair their truck.

Further, the landlords have already given the tenants the equivalent of \$1375.50 in compensation which is well more than the deductible on the tenants insurance, and now the tenants are claiming a further \$983.78.

It is not reasonable for tenants to choose not to mitigate their loss by paying their \$500.00 deductible, and then expect the landlords to compensate them a total of \$2359.28.

Conclusion

This application is dismissed in full without leave to reapply.

I further order that the applicant pay the filing fee of \$50.00, which was previously waived, to the director of the Residential Tenancy Branch

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 28, 2011.

Residential Tenancy Branch