



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, RR, FF, O

Introduction

This hearing dealt with an application by the tenant seeking a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and an order to allow the tenant to reduce the rent for repairs, services, or facilities agreed upon but not provided. Both parties participated in the conference call hearing.

Issue to be Decided

Is the tenant entitled to any of the above under the Act, regulation or tenancy agreement?

Background, Evidence and Analysis

The tenant's testimony is as follows:

The tenancy began on January 1, 2014 and ended on August 31, 2014. The tenants were obligated to pay \$900.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$450.00 security deposit. The tenant stated that they are seeking monetary compensation for having to live in a building with smokers. The tenant stated that the smoke continually wafted into his unit making it unbearable to live in. The tenant stated that the blinds in the building became yellow from the tar buildup. The tenant stated that he would become physically ill when taking a shower as the smoke would billow into his bathroom through the vents and the windows. The tenant stated that he just wants what's fair in terms of compensation.

The landlord gave the following testimony:

The landlord stated that they addressed the tenants concerns as soon as they were brought to their attention. The landlord disputes that the tenants are entitled to any compensation. The landlord stated that this is not a smoke free building.

Analysis

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The tenant stated that he incurred costs to purchase air purifiers. The tenant also referred to the tenancy agreement to support his claim. The tenant stated that he was suffering a medical condition from this unit. The tenant did not provide any receipts, medical reports, photos or tenancy agreement to support his position. The tenant has failed to meet all four grounds as listed above and as is required. Based on the insufficient evidence before me and on the balance of probabilities, I dismiss the tenants' application in its entirety.

Conclusion

The tenants' application is dismissed 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: September 22, 2014

Residential Tenancy Branch

