



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, LAT, RP, OPR, FF, MNR, MNSD, MNDC

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord(s). Both files were heard together.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, 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

The majority of the issues were dealt with in a previous interim decision, and therefore the only issues remaining are the landlord's request for a monetary order for outstanding rent, and the tenants request for a monetary order for loss of food.

Landlord's application

Background and Evidence

The landlord testified that:

- The rent for this unit is \$1000.00 per month and the tenant paid a \$500.00 security deposit.
- The tenant failed to pay the July 2014 rent, and the August 2014 rent and as a result a Notice to End Tenancy was given to the tenant.

- The tenant subsequently issued a monetary order on August 21, 2014 for \$1000.00 which covered the July 2014 rent.
- She was issued an order of possession in the previous interim decision however the tenant did not vacate the rental unit until mid-October 2014, and to date has still not returned keys.
- She has received no rent for the months of August 2014, September 2014, or October 2014 for total of \$3000.00.
- A cheque for \$600.00 was received in September, however when they attempted to cash that cheque they found a stop payment been put on the cheque.
- She is therefore requesting an order allowing her to keep the full security deposit of \$500.00 and requests that a monetary order be issued for the difference and for recovery of her filing fee.

The tenant testified that:

- She has paid the August 2014 rent by money order which was issued on August 21, 2014.
- She also paid the September 2014 rent by cheque, which the landlord claims bounced, however the landlord as provided no evidence to show that that cheque bounced.
- She has not paid any rent for the month of October 2014, however she vacated the rental unit on October 15, 2014 and therefore should only have to pay for one half months' rent.
- She has not returned keys to the rental unit; however they were left in the rental unit.

Analysis

It is my finding that the landlord has shown that there is a total of \$3000.00 in rent outstanding.

The tenant claims to have paid the August 2014 rent, however the only evidence is a money order dated August 21, 2014, and since the July 2014 rent was still outstanding at that time it is reasonable that the landlord applied that money to the July 2014 rent.

The tenant also claims that she has given the landlord a cheque for the September 2014 rent, however the landlord stated that that cheque was not honored by the bank, and the tenant has provided no evidence to show that the landlord has withdrawn any money from her bank account.

I also allowed the full October 2014 rent, because the tenant did not vacate the rental unit until well into the month of October 2014, and I find it very unlikely that the landlord will be able to re-rent the unit in the month of October 2014, especially since, at this point, the landlord is still not received the keys.

Since I have allowed the landlords full monetary claim I also allow the request for recovery of the \$50.00 filing fee

Tenant's application

Background and Evidence

The tenant testified that:

- The refrigerator in the rental unit stopped working on June 14, 2014, and the landlord did not replace it until September 10, 2014.
- As a result of having an inoperable refrigerator she had a great deal of food spoil and she estimates there was a total of \$880.00 in lost food.
- She had phoned the landlord on numerous occasions to attempt to get the refrigerator replaced, and had even sent letters to the landlord; however, as stated above, the refrigerator was not replaced until September 10, 2014.
- She therefore requests an order for the landlord to pay \$880.00 to reimburse her for lost food.

The landlord testified that:

- They do not believe that there was ever a problem with the refrigerator in the rental unit, as no complaints were ever filed about the refrigerator until after they (the landlords) had applied for dispute resolution due to the tenant not paying the rent.
- Suddenly, after they had applied for dispute resolution, they received an envelope with numerous complaint letters with various dates on them. They believe this was fraudulent information provided by the tenant in an attempt to mislead the arbitrator.
- Once they did become aware of a problem with the refrigerator they made three trips to the rental unit with a fridge in an attempt to replace it, however each time the tenant was not home.
- She therefore does not believe they should be paying the tenant any money for the alleged loss food.

Analysis

It is my finding that the tenant has not met the burden of proving that she has lost \$880.00 in food as a result of a faulty refrigerator.

The tenant has provided no breakdown of what food was allegedly lost and appears to have just picked a random number to claim for lost food.

Further, I'm not convinced that the tenant had informed the landlords of a problem with the refrigerator prior to the landlords claiming dispute resolution against the tenant, and therefore it appears that this claim was only brought forward as a defense to the landlords claim.

It is my decision therefore that I will not allow any of the money claimed by the tenant for the alleged loss of food.

Conclusion

I have allowed the landlords full claim of \$3050.00 and I therefore Order that the landlord may retain the full security deposit of \$500.00, and have issued a Monetary Order for the tenant to pay \$2550.00 to the landlord.

The tenant's application is dismissed in full without 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: October 21, 2014

Residential Tenancy Branch

