



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the "Act"), for a monetary order for money owed under the Act, to have the landlord comply with the Act and to recover the filing fee from the landlord.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Preliminary matters

At the outset of the hearing the tenant stated that they did not provide the landlord with their forwarding address prior to the hearing; however, they seek the return of the security deposit.

In this case the tenant did not provide the landlord with their forwarding address requesting the return of the security deposit. The tenant's application does not request the return of the security deposit. The landlord has made an application for dispute resolution claiming against the deposit which is to be heard in June 20, 2017. Therefore, I decline to hear any matters relating to the security deposit. The Arbitrator on June 20, 2017, will make a determination based on the evidence submitted.

Issues to be Decided

Is the tenant entitled to a monetary order for money owed under the Act?

Background and Evidence

The parties agreed that the tenancy began on February 2015. Rent in the amount of \$630.00 was payable on the first of each month. The tenant paid a security deposit of \$300.00. The tenancy ended on or about June 17, 2016.

The tenant claims as follows:

a.	Return of rent for November 2015	\$ 630.00
b.	Replacement of bed mattress	\$ 349.19
c.	Return of rent for June 2016	\$ 630.00
d.	Filing fee	\$ 100.00
	Total claimed	\$1,709.19

The tenant testified that they were out of the country for the month of November 2015. The tenant stated that they believe the landlord was using their rental unit while away. The tenant stated that the landlord's daughter had a book of theirs and the bed sheets appeared to be changed. The tenant seeks to recover rent in the amount of \$630.00.

The tenant testified that because someone was sleeping in their bed while they were away they bought a new mattress. The tenant seeks to recover the cost of mattress in the amount of \$349.19.

The tenant testified that they are entitled to one (1) month rent as the landlord ended the tenancy based on landlord's use of property. The tenant stated that although they did not receive a notice they should still be entitled to compensation. The tenant seeks the equivalent of one (1) month rent in the amount of \$630.00.

The landlord's agent testified at no time did the landlord use the tenants' rental unit in November 2015. The agent stated the landlord's daughter only had a book of the tenants because the landlord's mother was babysitting the tenant's child and their granddaughter at the same time in the tenant's unit and the child was given permission to borrow the book.

The landlord's agent testified that the tenant is being dishonest about the bed mattress as it was purchased at the end of December 2015, and not delivered until May 2016 as that was when the tenant was expecting relatives.

The landlord's agent testified that the tenant received compensation as they did not pay rent for June 2016.

The tenant acknowledged that they did not pay rent for June 2016. The tenant stated that the landlord told them that they are still entitled to receive \$630.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case the tenant has the burden of proof to prove their claim. In this case, the tenant has the burden of proof to prove their claim.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this case the tenant claims the landlord used their rental unit while out of country. The landlord denies the claim. I find the tenant has not provided sufficient evidence that the landlord used their rental unit while they were out of the country and I find it unreasonable that the tenant would bring the issue up only after the tenancy has ended.

Further, I find the tenant appears to attempting to provide false evidence. The tenant submits the landlord slept in their bed and a new mattress was required. First, even if the landlord slept in the bed, which there is no supporting evidence, I find it would not be reasonable to purchase a new mattress. Second, the mattress was not delivered until May of 2016, five month later. I accept the landlord version that the mattress was purchased for other family members of the tenant that were arriving. **The tenant is cautioned that providing false testimony and evidence is a serious offence and could have serious consequences.**

The evidence supports the tenant did not pay rent for June 2016; I find the tenant the tenant has been adequately compensated. Further, the tenant did not provided any documentary evidence that they gave the landlord proper written notice to end the tenancy early, as allowed by section 50(1)(b) of the Act. Therefore, I find the tenant is not entitled to recover the amount equivalent to one (1) month's rent or prorated rent.

The tenant's application is dismissed. Since the tenant was not successful with their application they are not entitled to recover the filing fee from the landlord.

Conclusion

The tenant's application is dismissed. The tenant is cautioned proving false testimony and evidence is a serious matter and could have serious consequences.

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: January 06, 2017

Residential Tenancy Branch