



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The landlord's agent confirmed receipt of the tenant's Application for Dispute Resolution.

Issue(s) to be Decided

Is the tenant entitled to a monetary order against the landlord?

Background and Evidence

The tenant's application indicated that he sought \$20,000.00 because the landlord tried to cause him legal problems. The tenant did not submit any documentary evidence. The tenant had difficulty explaining the nature of the legal problems that the landlords caused him, particularly without documentation to refer to. Over the course of the hearing, the tenant testified that there was no written tenancy agreement between the parties. He testified that he began living in the rental unit in 2014. He was unable to remember the exact date of the start of the tenancy. The landlord's agent provided undisputed testimony that the tenant moved in October or November 2014 and moved out September 2016 without any notice that he intended to vacate the rental unit.

The landlord's agent testified that the tenant resided in the basement suite of his mother's ("the landlord") residence. The tenant testified that, for the last year, he has been residing in the landlord's garage. The tenant testified that the garage had no

kitchen so he would eat out regularly and sometimes have meals with the landlord. The tenant testified that the garage had no bathroom and that he would go to nearby commercial locations to use the washroom. He testified that, once a week, he was allowed to shower in the landlord's home.

The tenant testified that, over the last year, he has paid \$500.00 each month to the landlord. He testified that this is \$175.00 more than his rental amount. He testified that he paid this amount in cash each month to the landlord. The landlord and the landlord's agent deny that the tenant has resided in their property at all in the last 12 months.

The landlord's agent submitted that the tenant's claim for \$20, 000.00 was frivolous and the landlord submitted that she rented to the tenant from 2014 to 2016 because she was sympathetic to the tenant's life circumstances.

Analysis

Pursuant to section 59(2)(b) of the Residential Tenancy Act, an application of dispute resolution must include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings. The purpose of the provision is to provide the responding party with enough information to know the applicant's case so that the respondent might defend him or herself. Further, it is of assistance to the arbitrator assessing the merits of the application to have documentary or other supporting evidence upon which to rely.

With respect to applications for monetary orders, section 67 of the Act requires that, when an applicant makes a claim for damage that applicant (in this case, the tenant) must make his case sufficient to meet the burden of proof on a balance of probabilities. The applicant (tenant) must prove the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the Act by the landlords and he must provide evidence that can verify the actual monetary amount of the loss or damage.

The tenant submitted that he was owed rental overpayments however he was unclear as to how or why he overpaid. He did not submit documentary evidence for this hearing in support of his claim for \$20, 000.00. The landlord testified that the tenant did not reside in the rental unit after he moved out in 2016. The tenant testified that he has been living in the landlord's garage for the last 12 months. The tenant did not provide sufficient evidence to support this claim. I also note that, based on his description of the

living accommodations in the garage of the landlord's home, this would not be considered a tenancy under the Act.

The tenant did not provide evidence of payment, or overpayment to the landlords over the last year or in his original tenancy. Without a residential tenancy agreement or other proof that the landlords have accepted rent in the last year, I have insufficient evidence to determine whether he is owed money from the landlords.

The tenant was advised that, without any documentary evidence or other proof to support his claim that he resided in the landlord's rental unit and overpaid the landlords, I cannot consider his claim at this time. I find that the tenant provided insufficient particulars to alert the respondents of the nature of his claim. Further, I find that the tenant provided sufficient evidence that he was party to a residential tenancy agreement between 2016 and 2017.

The tenant was also advised, during this hearing, that his application was dismissed ***with leave to reapply***. Any applicable timelines would still apply to any further application he chooses to make.

Conclusion

I dismiss the tenant's application in its entirety with 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: September 25, 2017

Residential Tenancy Branch