



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OLC, RP

Introduction

This matter was scheduled for a teleconference at 11:00 a.m. on this date. Both parties participated in the teleconference. Both parties were given full opportunity to be heard and gave affirmed testimony.

Preliminary Issue

The tenants' advised that they have moved out of the property as of December 31, 2017 and that they no longer are pursuing their application as originally applied for. The tenants' have submitted an amendment to their application and now seek the return of the security and pet deposit pursuant to Section 38 of the Act and a monetary order for compensation for loss or damage suffered under the Act, regulation or tenancy agreement pursuant to Section 67 of the Act. The landlord acknowledged that they have received this amendment. The hearing proceeded and completed on that basis.

Issue(s) to be Decided

Are the tenants entitled to the return of their pet and security deposits?
Are the tenants entitled to a monetary order as compensation for loss or damage resulting from this tenancy?

Background and Evidence

The tenants gave the following testimony. The tenants moved in on November 1, 2016 and moved out December 31, 2017. The tenants paid monthly rent of \$1600.00 that was due on the first of each month. The tenants provided an \$800.00 security deposit and a \$200.00 pet deposit that the landlord still holds in trust. The tenants testified that

they are seeking the return of their deposits plus an additional \$500.00 for “pain and suffering”. The tenants testified that they have not been able to feed themselves properly as a result of the landlord not returning the deposit. The tenants testified that the landlord cut off their electricity during their tenancy as well as denying access to laundry and parking. The tenants seek a total of \$1500.00.

The landlord gave the following testimony. The landlord testified that the tenants’ have not provided their forwarding address. The landlord testified that the tenants verbally directed her to drop off any paperwork at RM’s place of employment or her school. The landlord testified that she spoke to both the school and RM’s employer and both advised that they did not want to get involved and would not forward documentation. The landlord testified that she is unable to file an application for the retention of the deposit and other monetary claims as she does not have the tenant’s forwarding address. The landlord testified that she is the one that endured much pain and suffering as a result of the tenants behaviour and actions during the tenancy. The landlord adamantly disputes the tenants’ claims.

Analysis

Firstly, I address the tenants claim for the return of the deposits. The tenants confirmed that they have not provided the landlord their forwarding address “for security reasons”. The tenants have not provided justification as to withholding their forwarding address. The tenants must provide their forwarding address to the landlord as is noted in Section 39 of the Act if they wish to make a claim for it, as the tenants have not done that, I find that they are premature in this application and I therefore dismiss this portion of their application with leave to reapply.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. **In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof.** The claimant must provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In terms of the tenants claim for “pain and suffering”; it is clear that the relationship between the parties is an acrimonious one. Both parties accused the other of aggressive and belligerent behaviour. However, the tenants have not provided sufficient evidence to satisfy any of the four grounds noted above and accordingly; I dismiss this portion of their application.

Conclusion

The tenants claim for a monetary award for compensation for pain and suffering is dismissed in its entirety without leave to reapply.

The tenants claim for the return of the deposits is dismissed 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: February 05, 2018

Residential Tenancy Branch