



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for compensation for damages and an order for the return of all of the security deposit. Despite having been served by registered mail on August 8, 2008, the application for dispute resolution and the notice of hearing, the landlord did not attend the conference call hearing.

Issues to be Decided

Is the tenant entitled to a monetary order for compensation for damages under the tenancy agreement?

Is the tenant entitled to return of the security deposit?

Background and Evidence

On July 7, 2008, the landlord and the tenant verbally agreed on terms of a tenancy by phone. The tenant was to rent a clean and furnished unit located on the landlord's property commencing July 8, 2008. On July 8, 2008, the landlord collected from the tenant, a security deposit in the amount of \$300.00. On the same day, the tenant paid the July rent in the amount of \$440.00 and began her tenancy.

The tenant said that when she moved into the rental unit, she found it to be in deplorable conditions. She described the mattress to have spider webs; the fan

covered with dust and dirt; the sinks, taps and toilet to be filthy; the area underneath the toaster to have mouse dropping; and the kitchen towels unwashed. The tenant asked the landlord to clean up the unit but he refused. So the tenant asked for cleaning supplies but the landlord also refused by using foul language.

The tenant said that the landlord frequently entered her rental unit without giving any notice or permission and used foul language with her under the influence of alcohol. On one occasion, the landlord asked her to go up the ladder with him where the bed was. On another occasion, the landlord cut the cord to the tenant's air conditioning unit so she could not use it.

The tenant felt that she was being watched by the landlord. On either July 9 or 10, she called the RCMP to check if there was any camera installed by the landlord in her rental unit. The RCMP confirmed that there was none.

On July 11, the tenant felt that she could no longer remain at the rental unit due to the constant harassments and intimidation by the landlord. She called the RCMP to escort her out of the rental unit. Before leaving, the tenant told the landlord of the reason of her moving out and asked for the return of her rent and security deposit. The landlord said that he had spent all of the money and would pay the tenant back her rent and security deposit when he was able to re-rent the unit. The tenant then gave the landlord her forwarding address in Fort St. John in writing.

Analysis

The tenant is seeking damages for the amount of \$382.00 (rent prorated for the period of July 12 to 31).

Based on the tenant's undisputed testimony, I find that the landlord has breached a term of their verbal tenancy agreement by failing to deliver a clean rental unit to tenant. I also find that the landlord has breached Section 28 of the *Residential Tenancy Act* by entering the tenant's rental unit frequently without notice or permission, intimidating the

tenant with foul language and intentionally removing services. Furthermore, I find the landlord's substantial interference has given sufficient cause to warrant the tenant leaving the rental unit. Based on the above, I find that the tenant is entitled to compensation for the amount of \$382.00.

Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit. I find that the tenancy ended on July 11, 2008, and that the tenant provided her forwarding address in writing on that date. I further find that the landlord has failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing.

I find that the tenant has established a claim for the security deposit of \$300, accrued interest of \$1.33, and double the base amount of the security deposit in the amount of \$300, for a total of \$601.33.

Conclusion

Based on all of the above, I find that the tenant has established a total claim of \$983.33 comprised of \$382.00 in damages and \$601.33 in return of her security deposit and interest and double the base amount of her security deposit. The tenant is also entitled to recover the \$50.00 filing fee for this application. I grant the tenant an order under section 67 for the balance due of \$1033.33. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated October 22, 2008.
