



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: *MNSD, MNDC, FF*

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for an order for the return of all of the security deposit plus an amount equal to the security deposit and an order to recover the filing fee for the cost of this application. The tenant is also applying for compensation in the amount of \$600.00 which is the rent for September, as the landlord denied him the use of the rental unit by changing the locks.

The tenant applied for dispute resolution on October 30, 2008 and notified the landlord of the hearing by registered mail on November 03, 2008. Despite having been duly notified, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issue(s) to be decided

Is the tenant entitled to the return of all of his security deposit, an amount equal to the security deposit, rent for September 2008 and the filing fee?

Background and Evidence

The tenancy started on July 04, 2008. Rent was set at \$600.00 and the tenant paid a security deposit of \$600.00 on July 04, 2008. The rental unit consisted of a room with shared facilities. On August 31, 2008, the tenant gave the landlord a one month notice to end tenancy effective October 01, 2008, along with his forwarding address. The tenant stated that after he gave the landlord notice to end tenancy, the situation changed and the landlord started emailing him with derogatory statements and swore at the tenant, during their conversations. The tenant has provided copies of emails to support his oral evidence.

The tenant stated that he started moving his belongings out of the unit, during the month of September, but continued to spend the nights in the rental unit. He spent the night of September 27, 2008 at a friend's home and returned to the rental unit on

September 28, 2008 to find himself locked out. An email note to the tenant from the landlord dated September 27, 2008 confirms that the locks were changed that day. The email also lists the deficiencies in the condition of the rental unit and states the tenant will be responsible for the cost of restoring the suite to its original condition. It also states "If you would like to spend a couple of days cleaning around here and doing some garden work I may consider your debt to me clear". The note also asks the tenant not to have further contact with the landlord but to communicate through his lawyer. The tenant returned to the house on October 02, 2008 and left his forwarding address in writing, by slipping it under the main door.

Analysis

Section 38 (1) of the *Residential Tenancy Act* states that within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit to the tenant with interest or make an application for dispute resolution claiming against the security deposit.

In this case, I find that the landlord did not return the security deposit to the tenant nor did he not make an application for dispute resolution within 15 days of receiving the tenant's forwarding address. Hence, pursuant Section 38 (6) of the *Residential Tenancy Act*, the landlord may not make a claim against the security deposit and must pay the tenant double the amount of the security deposit.

The tenant had paid rent for September but was denied access to the unit for the last four days of September. Hence, I find that the tenant is entitled to prorated rent for these days in the amount of \$80.00. The tenant is also entitled to the recovery of his fee to file this application.

I find that the tenant has established his claim in the amount of \$1333.81 which consists of the following:

- \$603.81 return of security deposit plus accrued interest

- \$600.00 the base security deposit
- \$80.00 rent for four days
- \$50.00 fee for filing this application

Conclusion

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for the amount of **\$1333.81**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated December 05, 2008.

Dispute Resolution Officer