



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes:

MNSD, FF, OLC

Introduction

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act* for a monetary order for the return of all of the security deposit pursuant to Section 38 and to recover the filing fee for this application pursuant to Section 72. The tenant also applied for an order for the landlord to comply with the Act and Regulations pursuant to Section 62.

Both parties attended the hearing and were 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.

Issues to be Decided

Is the tenant entitled to the return of the security deposit and the cost of filing this application?

Background and Evidence

Based on the sworn testimony of both parties, the facts are as follows:

The tenancy started on August 31, 2004 and the tenant paid a security deposit of \$1200.00 on September 01, 2004. The tenant moved out on August 31, 2008.

During the hearing the landlord and tenant agreed that there was some damage to the rental suite as a result of negligence on the tenant's part and both parties agreed settle this matter on the following terms:

- The landlord will retain \$230.00 from the security deposit and return the balance with interest to the tenant.
- The tenant will accept \$970.00.00 plus interest in full satisfaction of the tenant's claim.

Both parties acknowledge that the above terms are binding on both parties.

Analysis

Since the parties reached a mutual agreement to settle this matter, I order that the landlord retain \$230.00 from the security deposit and interest of \$1242.49 and I grant the tenant an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1012.49. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenant has claimed the filing fee in the amount of \$50.00 and I find that this fee must be borne equally by both parties. Hence the tenant is entitled to \$25.00 towards the filing fee, for a total of \$1037.49.

Conclusion

I grant the tenant a monetary order in the amount of **\$1037.49** in full and final satisfaction of the tenant's claim against the security deposit on the dispute rental unit.

Dated January 09, 2009.

Dispute Resolution Officer