



Dispute Resolution Services

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

Decision

Dispute Codes: MNSD MNDC

Introduction

This hearing dealt with an application by the tenant for a monetary order for double recovery of the balance of the security deposit, as well as punitive damages. Both the tenant and the landlord's agent appeared and participated in the teleconference hearing.

In the hearing the tenant stated that he had not received the 3 pages of the landlord's evidence. The landlord sent the evidence by regular mail. The tenant was familiar with the second and third pages of the evidence, which were a copy of a handwritten note dated July 3, 2008 and signed by the tenant, and the tenant's typed forwarding address. The tenant was not familiar with the first page, which was a typed statement of the landlord's response to the tenant's application. I therefore did not admit or consider the first page of the landlord's evidence, but I heard and considered the landlord's oral testimony.

Issue(s) to be Decided

Is the tenant entitled to double recovery of the outstanding amount of the security deposit?

Is the tenant entitled to other monetary amounts claimed?

Background and Evidence

The evidence of the tenant was as follows. On June 25, 2008 he first attended at the hotel and asked for a room. He returned on June 26, 2008 and paid \$596 for the first

month's rent and \$296 for the security deposit. He returned to the hotel several times but was told that the room was not ready. On July 3, 2008 the tenant told the landlord that he wanted his money back, and they said no. The landlord wrote a note that stated that something suddenly came up for the tenant, so the landlord would give back \$200 to the tenant for one week, and the tenant would get his room back when he paid back the \$200 after one week. The landlord told the tenant that he had to sign the letter to get \$200 from them. The landlord did not return the remaining \$96 of the security deposit or the rent. On November 27, 2008 the tenant provided the landlord with his written forwarding address and asked for return of the remainder of the security deposit of \$96 as well as the rent of \$596. The landlord did not pay anything back. The tenant seeks double recovery of the \$96 remaining on the security deposit, as well as double the \$596 paid for rent, as "punitive damages" against the landlord.

The evidence of the landlord was as follows. On or about July 3, 2008 the tenant came to the hotel and said he was looking for a room. He later returned with two cheques, one for \$596 for the rent, and the other for \$296 for the security deposit. The tenant then stated that he needed \$200 cash back because something suddenly came up and he had to leave for one week. The landlord had the tenant sign and initial a statement, and they gave the tenant \$200. In September or October 2008, the tenant started calling the landlord and demanding the return of the remainder of his money. The landlord told the tenant they would return the \$96 remaining from the security deposit, but the tenant only kept phoning and threatening the landlord.

Analysis

In regard to the remainder of the security deposit, I find that the landlord did not comply with the requirements under the Residential Tenancy Act, and the tenant is therefore entitled to double recovery of the \$96, plus applicable interest. Section 38 of the 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. In this

case the tenant provided his written forwarding address on November 27, 2008 and the landlord failed to repay the security deposit or make an application for dispute resolution within the required time frame. The tenant is therefore entitled to the remainder of the security deposit of \$96, accrued interest of \$0.72, and double the base amount of the security deposit in the amount of \$96, for a total of \$192.72.

In regard to the tenant's claim for punitive damages, I find that the tenant is not entitled to any monetary compensation. I find that I prefer the evidence of the landlord as more credible. The landlord was unable to re-rent the apartment for the month of July because the tenant stated that he was intending to return after one week. The tenant is therefore responsible for the rent for July 2008. Moreover, I do not have any authority to award any punitive damages. I therefore dismiss this portion of the tenant's application.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$192.72. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated February 3, 2009.