

DECISION

Dispute Codes: MNDC, MNSD

Introduction

This hearing dealt with an application by the tenant for a monetary order for the amount of the security deposit, applicable accrued interest, double the security deposit, and compensation for loss under the *Act*. Despite having been served the notice of hearing and application for dispute resolution in person on January 27, 2009, the landlord did not attend the hearing.

Issues to be Decided

- Whether the tenant is entitled to a monetary order for the amount of the security deposit, applicable accrued interest and double the security deposit?
- Whether the tenant is entitled to a monetary order for compensation for loss under the *Act*?

Background and Evidence

The tenancy began on August 1, 2008. The tenant paid a security deposit of \$375.00 on the same day. On October 12, 2008, the landlord changed the lock of the unit without providing the tenant with the new key and removed all of the tenant personal belongings from his unit. The tenant filed an application for dispute resolution and the first hearing of his application took place on November 14, 2008. A decision issued by the Residential Tenancy Branch dated December 11, 2008 found that the landlord was in breach of the *Residential Tenancy Act* by illegally evicting the tenant, removing his belongings and locking them in storage.

Analysis

Issue #1 – Whether the tenant is entitled to a monetary order for the amount of the security deposit, applicable accrued interest and double the security deposit?

Sometime before November 14, the tenant provided the landlord with his written forwarding address when he served the landlord by registered mail with the application for dispute resolution and the notice of hearing. The landlord has not returned the security deposit or applied for dispute resolution.

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 October 12, 2008, and that the tenant provided his forwarding address in writing to the landlord sometime before November 14, 2008. 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 \$375.00, accrued interest of \$2.35, and double the base amount of the security deposit in the amount of \$375.00, for a total of \$752.35.

Issue #2 – Whether the tenant is entitled to a monetary order for compensation for loss under the Act?

The tenant is seeking compensation for the loss of his personal belongings. He claims that such loss was a direct result of the landlord's breach of the Act.

The tenant gave the following evidence with respect to his efforts in retrieving his personal belongings. On October 14, 2008 the tenant returned to his unit with

the police. On that occasion, the landlord refused the tenant access to his personal belongings. Two days later, the tenant gained access to the underground parking and found remnants of his furnishings. Most of the items were stolen and some had been replaced with lesser quality ones. The tenant found out that the smaller items from his personal belongings were stored in a locked storage room. On January 24, the tenant was accompanied by the police to retrieve the rest of his personal belongings in the storage room. When the tenant arrived, he found the lock to the storage room to be removed and most of his personal belongings stolen or damaged. The tenant managed to retrieve several items such as one baby shoe, a pair of running shoes, some photos of his children and one quilt. Later, the tenant found out that the landlord had instructed the building manager to remove the lock from the storage room thus allowing others to have unrestricted access.

Based on the above, I find that the tenant has suffered loss of his personal belongings and that such loss was a direct result from the landlord's breach of the *Act*. The tenant is therefore entitled to compensation for such loss.

The tenant is seeking compensation for the loss of his personal belongings in the amount of \$3100.00. To support his claim, he submitted the following documents: a letter from his brother SH dated January 18, 2009 listing all of the items he had given the tenant and their approximate value of \$450.00; a letter from an individual RM dated January 12, 2009 listing the items he had sold to the tenant for \$400.00; and a letter from an individual DG dated January 16, 2009 listing all the items she had sold to the tenant for \$325.00. The tenant also submitted an additional itemized list of his personal belongings and their value which total of \$1925.00.

I have accepted the tenant's undisputed evidence as credible and trustworthy and I find the tenant's claim to be reasonable. However, in view of the lack of supporting evidence with respect to the age of some of the items and their

original cost, I am allowing 75% of the total claim of \$3100.00 which amounts to \$2325.00.

Conclusion

Based on all of the above, I find that the tenant has established a total claim of \$3077.35. I grant the tenant an order under section 67 for the balance due of \$3077.35. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated April 01, 2009.