

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, and to recover the cost of the filing fee.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, given to the landlord in person on January 23, 2010. The landlord has signed the hearing letter to acknowledge receipt of the hearing package.

The tenant appeared, gave affirmed testimony through an interpreter, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed under the Act?
- Is the tenant entitled to recover the filing fee?

Background and Evidence

This month to month tenancy started on December 01, 2006 and ended on December 04, 2009. The tenants' rent by the end of the tenancy was \$1,450.00 which was due on the first of each month. The tenant paid a security deposit of \$700.00 on November 07, 2006.

The tenant has provided a copy of the move out condition inspection report and testifies that she agreed on this report that the landlord could deduct \$200.00 from her security deposit for rent for December, 2009. The tenant testifies that she also agreed that the landlord could deduct the cost of carpet cleaning from her security deposit.

The tenant claims the landlord gave her a cheque for \$271.71 dated December 17, 2009. The tenant claims the landlord has retained a total of \$428.29 from the security deposit. This includes the \$200.00 for rent, \$170.00 for carpet cleaning and the remainder to move a bed frame and basket ball hoop. The tenant claims the landlord has not provided the tenant with a receipt to show the actual cost of the carpet cleaning as requested.

The tenant seeks to recover the amount of \$80.00 which she did not agree the landlord could retain from the security deposit which includes the outstanding amount of \$58.29 and \$21.71 accrued interest. The tenant states that she did not provide the landlord with her forwarding address but went to collect the cheque for the security deposit instead.

The tenant seeks to recover the \$50.00 filing fee paid for this application.

Analysis

Section 38 (1) of the *Act* says that a landlord has 15 days after the later of a) the date the tenancy ends, and b) the date the landlord receives the tenants address in writing to either return the security deposit to the tenant or to make a claim against it by applying

for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6) of the *Act*, the landlord must pay double the amount of the security deposit (plus any interest accrued on the original amount) to the tenant .

I find that the tenant did not provide the landlord with her forwarding address in writing. As a result, the landlord did not receive the tenants forwarding address until she received notice of this hearing. As the hearing documents were given to the landlord on January 23, 2010 the landlord had 15 days from this date to return the remainder of the tenants' security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the remainder of the tenants' security deposit or accrued interest of \$80.00. I also find the tenant has not applied to recover double the security deposit but has applied to recover the \$80.00 outstanding. Consequently, pursuant to section 38 of the *Act*, I find the landlord must return \$80.00 to the tenant. The tenant is entitled to a Monetary Order as follows:

Security deposit	\$700.00
Less amount tenant agreed landlord could retain	(-\$200.00)
Less carpet cleaning	(-\$170.00)
Less amount already returned to the tenant	(-\$271.71)
Subtotal due to the tenant	\$80.00
Plus filing fee	\$50.00
Total amount due to the tenant	\$130.00

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$130.00**. The order must be served on

the respondent and is enforceable through the Provincial Court as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 19, 2010.

Dispute Resolution Officer