



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order. The landlord did not participate in the conference call hearing. The tenant testified that he served the landlord with the application for dispute resolution and notice of hearing via registered mail on May 7, 2010. I accepted that the landlord was properly served with notice of the claim and hearing and the hearing proceeded in her absence.

Issues to be Decided

Is the tenant entitled to the return of double his security deposit?

Is the tenant entitled to an award for loss of quiet enjoyment?

Background and Evidence

The undisputed facts before me are as follows. The tenancy began late in 2009 and ended on April 1, 2010. At the outset of the tenancy the landlord collected a security deposit of \$1,500.00. On April 14, the tenant personally gave the landlord his forwarding address in writing.

The tenant testified that during the tenancy the landlord breached the tenancy agreement in a number of ways. The landlord had promised to provide a refrigerator but did not do so in a timely manner and the tenants went without a refrigerator for 3 months. The shower had a leak which the landlord did not repair throughout the tenancy. The landlord demanded that the tenants pay for utilities and make other additional payments. The original tenancy agreement had provided that utilities were included in the \$1,500.00. per month rent.

Analysis

I accept the tenant's undisputed testimony. Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. I find the landlord received the tenant's forwarding address on April 1, 2010 and I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a \$1,500.00 security deposit. I award the tenant \$3,000.00, which is double the security deposit.

As for the tenant's claim for loss resulting from the landlord's breach of the tenancy agreement, I find that the landlord was obligated to provide a refrigerator throughout the tenancy. I find that \$450.00 will adequately compensate the tenant for the loss of that appliance. I find that the landlord was obligated to perform repairs on the shower and did not effectively repair that leak during the tenancy. However, the tenant did not indicate that the shower was not functional during that timeframe and without corroborating evidence to show the extent of the leak and damage caused by it, I am unable to find that this breach should attract any compensation. The tenant did not present evidence showing that he complied with the landlord's demands for additional monies and in the absence of evidence of loss, I find that compensation is not warranted.

I find that the tenant is entitled to recover the \$50.00 filing fee paid to bring his application and I award him that sum.

Conclusion

I grant the tenant an order under section 67 for \$3,500.00, which includes the double security deposit, compensation for loss of use of the refrigerator and the \$50.00 filing

fee paid to bring this application. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: September 15, 2010

Dispute Resolution Officer