



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: *MNSD, MNDC, FF*

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit and the recovery of the filing fee. The tenant also applied for compensation for some problems she faced during the tenancy and for the loss of some of her personal belongings.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on July 30, 2010. The tenant filed a receipt with a tracking number. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issue(s) to be Decided

Is the tenant entitled to the return of double the security deposit and the filing fee? Is the tenant entitled to compensation?

Background and Evidence

The tenancy began on January 01, 2010. The monthly rent was \$950.00. Prior to moving in, the tenant paid a security deposit of \$475.00. The rental unit was located in the basement of the home. The landlord lived upstairs. The tenant moved out on June 30, 2010 and provided the landlord with her forwarding address by registered mail on July 06, 2010.

The tenant stated that the landlord had put the home up for sale and had multiple showings without providing adequate notice to the tenant.

In addition, the tenant testified that the refrigerator and two faucets did not work and on some days, the landlord denied her access to the laundry room. The tenant also stated that after she had left the home on June 28 to move some of her personal items to the lower mainland, the landlord forced the tenant's son to move out as the new owners of the home wanted to use the space in the basement. The landlord packed the tenant's belongings and removed her groceries from the rental unit. The tenant's son spent two days in the upper level of the home and ate his meals in restaurants.

The tenant testified that she lost some of her personal belongings which included furniture and groceries and is claiming compensation for these items. The tenant is also claiming the return of rent for three months for the problems she encountered during the tenancy. The tenant has filed a hand written list of the items that she is claiming compensation for.

The tenant is claiming the following:

1.	Double Security Deposit	\$950.00
2.	Loss of furniture	\$200.00
3.	Loss of groceries	\$130.00
4.	Rent for three months	2,850.00
5.	Filing fee	\$50.00
	Total	\$4,180.00

Analysis

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 that the landlord failed to repay the security deposit, nor did he make an application for dispute resolution to retain a portion of the security deposit 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 deposit.

Based on the sworn testimony of the tenant and in the absence of evidence to the contrary, I find that the landlord currently holds a security deposit of **\$475.00** and is obligated under section 38 to return **\$950.00** which represents double this amount.

The tenant has also claimed the equivalent of rent for three months as compensation for problems she encountered during the tenancy. The tenancy lasted for six months and the tenant had the opportunity to address the problems at the time the problems occurred, by notifying the landlord and/or applying for dispute resolution, if the landlord did not correct the problems. The tenant chose neither option but instead chose to file a claim for compensation after the tenancy ended. Therefore I find that the tenant is not entitled to compensation in the amount of rent for three months.

The tenant did not file any evidence to support her claim of the loss of her personal items or groceries. Therefore I find that the tenant has not proven her claim of \$200.00 for furniture and \$130.00 for groceries. However based on the tenant's sworn, undisputed testimony, I find that the landlord did cause the tenant to suffer some loss by asking the tenant's son to move out prior to the end of the month.

Residential Tenancy Policy Guideline #16 states that an arbitrator may award "nominal damages" which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right. I find that the tenant is entitled to a minimal award of \$100.00 for the inconvenience she endured when the landlord forced her son to vacate the suite on June 28 instead of allowing him to stay until June 30.

Over all I find that the tenant has established a claim of \$950.00 for the return of her security deposit plus \$100.00 for compensation. Since the tenant has proven a large portion of her claim, she is also entitled to the recovery of the filing fee of \$50.00. I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$1,100.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of \$1,100.00

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: December 21, 2010.

Dispute Resolution Officer