

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an application by the tenant seeking an order to have their security deposit returned and a monetary order for compensation. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to any of the above under the Act, the regulations or the tenancy agreement?

Background and Evidence

The tenancy began on or about August 1, 2010 and ended April 30, 2011. Rent in the amount of \$1200.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$600.00.

Both parties agree that a move in nor move out condition inspection report was not conducted and that the tenant gave their forwarding address in writing on the last day of their tenancy. Both parties also agree that the landlord issued a Two Month Notice to End Tenancy for personal use effective April 30, 2011 and that the tenant's did not pay rent for the month of April.

The tenants' testified to the following; they were seeking the equivalent of two months' rent as compensation as it is their belief that is what their entitled to, the return of the security deposit as it was still not returned at the time of today's hearing, they had to rent a storage unit to house some of their belongings, and that they should be compensated at \$100.00 per month X 5 months for having to share the storage shed

with the landlord. The tenants view was that on the tenancy agreement it stated that storage was included and that they should be compensated for sharing it.

The landlord testified to the following; the shed was in a “dilapidated state” with a leaky roof and couldn’t really be classified as storage. The landlord stated that he “I did everything I could to make them happy” and was never aware of the issues as raised by the tenant.

Analysis

I address each of the tenant's claims in the following manner;

1. The return of the security deposit; as outlined in section 38 of the Act the landlord must return the deposit within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenant’s forwarding address in writing. In the landlords own testimony he admitted that he had not conducted a move in nor move out condition inspection report and therefore extinguished his right to make a claim for the security deposit. The tenant has satisfied me that they are entitled to the return of the security deposit. I award the tenant \$600.00.
2. Seeking the equivalent of two months’ rent as compensation for moving out based on a Notice for Landlord’s personal use; Section 51(1) for Tenant’s compensation states: a tenant who receives a notice to end a tenancy under section 49 is entitled to receive from the landlord on or before the effective date of the landlord’s notice an amount that is the equivalent of one month’s rent payable under the tenancy agreement. The tenant testified that they thought an amendment had been made to the Act, however they were unable to provide any documentary evidence to support that claim. The tenant stated during their testimony that they had already received a months’ rent as compensation. I find that the correct of amount of compensation has been given to the tenants and accordingly dismiss this portion of their claim.

3. Compensation for sharing the shed; the tenant did not provide any documentary evidence that would support their claim that they had rented a storage facility to house their belongings. No receipts were submitted to this hearing. The tenancy agreement provided did have storage as “ticked off” as included in the rent but does not detail or specify the storage area. Neither party was clear as to what the agreement was in this regard. I am not satisfied with the evidence provided to me by the tenant and as a result dismiss this portion of their application.

The tenant has been partially successful in their application.

As for the monetary order, I find that the tenant has established a claim for the return of their security deposit of \$600.00. The tenant is also entitled to recovery of the \$50.00 filing fee. I grant the tenant an order under section 67 for the balance due of \$650.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenant is granted a monetary order for \$650.00.

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: September 19, 2011.

Residential Tenancy Branch