

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This is an application filed by the Tenant for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, return of all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony.

The Tenant has submitted 2 evidence packages consisting of a submission letter, a copy of the signed tenancy agreement, a letter and invoice from his current Landlord and 12 pages of photographs of the rental unit and building. The Landlord states that he did not receive any evidence from the Tenant. The Tenant confirms that he only sent the photographs to the Landlord. The Landlord disputes this stating that no evidence has been received. The second evidence package consists of a copy of a decision made on Residential Tenancy Branch File No. 773323. The Tenant does not have any proof of service for the photographs submitted. I find that as the Tenant has given testimony that he did not serve the Landlord with any of the submitted evidence save the photographs and is not able to provide any proof of service that the evidence submitted was given to the Landlord that I am unable to give weight to the Tenant's evidence. I find on review that the Tenant's evidence does not give relevance to the application filed and that the Landlord is not prejudiced. The hearing shall continue with references made only to the Tenant's copy of the signed tenancy agreement that the Landlord has confirmed in his direct testimony. The Landlord has not submitted any evidence.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order of compensation for loss?

Is the Tenant entitled to a monetary order for the return of the security deposit?

Background and Evidence

Both parties agree that this Tenancy began on August 27, 2009 on a fixed term tenancy for 6 months ending on February 28, 2010 and then thereafter on a month to month basis as shown in the signed tenancy agreement. The monthly rent was \$1,000.00 payable on the 1st of each month and a security deposit of \$500.00 was paid on August 12, 2009.

The Tenant has made a claim for \$4,000.00, seeking the return of the \$500.00 security deposit, \$2,400.00 for the loss of no heat and hot water over a 12 month period consisting of \$200.00 per month, a loss of a bed, couch and television and recovery of a invoice charge from Orkin Services for a bedbug treatment for the remaining 1,100.00.

The Tenant states that after the Tenancy came to an end the Landlord failed to return the \$500.00 security deposit. The Landlord disputes this stating that the Tenant failed to give notice to vacate the rental unit, failed to pay the last months rent and did not give the forwarding address in writing to the Landlord. The Tenant claims that he gave verbal notice 1 month prior to vacate the rental unit and verbal notice of the forwarding address. The Tenant is unable to provide any evidence of notice or the forwarding address in writing given to the Landlord. The Landlord stated in direct testimony that he has not filed for dispute resolution or returned the security deposit to the Tenant.

Analysis

As both parties have attended the hearing and the Landlord/respondent has made reference in his direct testimony to receiving the notice of hearing documents, I am satisfied that each has been properly served.

The Tenant has failed to properly serve the Landlord with any evidence submitted in support of his application. The Landlord has not filed any evidence.

Residential Tenancy Act, Section 38 states,

Return of security deposit and pet damage deposit

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

- (b) the date the landlord receives the tenant's forwarding address in writing,
the landlord must do one of the following:
 - (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
 - (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.
- (6) If a landlord does not comply with subsection (1), the landlord
 - (a) may not make a claim against the security deposit or any pet damage deposit, and
 - (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find based upon the direct testimony of both parties that the Tenant has failed to provide the Landlord with a forwarding address in writing. I find that the Landlord was deemed to have received the Tenant's address upon receipt of this application for dispute filed July 18, 2011 that the Landlord has confirmed receiving. The Landlord has failed to apply for dispute resolution or repay the \$500.00 security deposit. Based upon the above, I find that the Tenant has established a claim for the return of double the \$500.00 security deposit and I grant the Tenant a monetary order for \$1,000.00.

As for the remainder of the Tenant's claim for \$2,400.00 for the loss of no heat and hot water over a 12 month period consisting of \$200.00 per month, a loss of a bed, couch and television and recovery of an invoice charge from Orkin Services for a bedbug treatment for RTB File No. 773323 for the remaining \$1,100.00. I find that as these issues are in dispute by the Landlord and that the Tenant has failed to provide any supporting evidence that the Landlord was negligent and responsible, this portion of the Tenant's claim is dismissed.

The Tenant is also entitled to recovery of the \$50.00 filing fee.

Conclusion

The Tenant is granted a monetary order for \$1,050.00.

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: October 11, 2011.

Residential Tenancy Branch