



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order. The hearing was originally convened on October 20 at which time both parties were in attendance. At that time, the landlord indicated that his agents who had dealt directly with the tenant were no longer in his employ and he required additional time to determine what had taken place. The tenant agreed to an adjournment and the parties each provided addresses to which a notice of hearing could be sent.

On October 21, the Residential Tenancy Branch mailed notices of hearing to the addresses provided by the parties to advise that the hearing had been scheduled to reconvene on November 16 at 10:30 a.m. The tenants' advocate participated in the hearing on this date but the landlord did not. I am satisfied that the landlord had notice of the reconvened hearing and the hearing proceeded in his absence.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The tenant's undisputed evidence is as follows. On March 12, 2011, the parties entered into an agreement for a tenancy which was to begin on April 1, 2011 at a rental rate of \$1,250.00 per month. The tenant provided a receipt showing that he paid \$1,600.00 to the landlord, which sum represented a \$625.00 security deposit and \$975.00 of the first month's rent. He further provided a copy of the landlord's deposit ledger showing that this money was deposited on March 14, 2011.

The tenant presented photographic evidence showing that when he attended at the rental unit in April to move into the unit, there were no plumbing connections under the kitchen sink and the unit did not have a doorknob. He also documented other minor problems with the unit.

The tenant determined that the unit was unfit for occupancy and did not move into the unit. He provided his forwarding address to the landlord in April and again in June when his advocate wrote to the landlord. The tenant seeks to recover the \$975.00 in rent paid for April and double the security deposit as well as a payment of \$850.00 made on his behalf to the landlord by the Ministry of Employment and Income Assistance which the landlord received in April. The tenant provided documentation showing that this payment was made to and negotiated by the landlord.

Analysis

I accept the tenant's undisputed evidence and I find that the rental unit was unfit for occupation on April 1, 2011. I order the landlord to return the \$975.00 rental payment made by the tenant and the \$850.00 payment made on behalf of the tenant by the Ministry.

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 received the tenant's forwarding address in June 2011 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. I order the landlord to pay the tenant \$1,250.00.

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

Conclusion

I grant the tenant an order under section 67 for \$3,125.00. This order may be filed in the Small Claims Court and enforced 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: November 16, 2011

Residential Tenancy Branch