



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's application for a monetary order as compensation for the cost of emergency repairs / compensation for damage or loss under the Act, Regulation or tenancy agreement / return of the security deposit / and recovery of the filing fee. Both parties attended and / or were represented at the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on January 1, 2011. Monthly rent is \$650.00 and a security deposit of \$200.00 was collected. During the hearing the tenant noted that he erred in claiming in his original application that the security deposit was \$250.00.

The landlord issued a 1 month notice to end tenancy for cause, a copy of which is not in evidence. In his Affidavit, the tenant claims that the notice is dated December 2, 2011 and that it was on that same date by the landlord's agent. Subsequently, the tenant stated that on or about December 15, 2011 he moved out of the unit, even while some of his possessions still remain. It is understood that the tenant fully intends to remove all of his possessions from the unit. In the result, while the tenant anticipates the eventual return of his security deposit, tenancy does not appear to have yet completely ended and a move-out condition inspection has not yet taken place.

As to the cost of hydro, the tenant stated that he reached a verbal agreement with the landlord pursuant to which the cost of hydro is to be shared equally with the upstairs tenant. He stated that the amount now owing has increased from the amount shown in his original application. Further, while the tenant states that he has been in contact with

the upstairs tenant in regard to this matter, he has still not been reimbursed by the upstairs tenant in the amount of his share. There are no copies of any hydro invoices in evidence.

As to the claim of \$500.00, the tenant states that in August 2011, he loaned the landlord \$500.00. These funds, he claims, were used by the landlord to pay for the services of a plumber. The tenant testified that he himself did not pay any money directly to the plumber. Despite the agreement reached with the landlord according to which she would repay the "loan," thus far the tenant claims that no portion of it has been repaid.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 38 of the Act speaks to **Return of security deposit and pet damage deposit**. In short, the disposition of the security deposit is determined between the parties either at, or after the time when tenancy ends. I find that as the subject tenancy has not yet ended and no move-out condition inspection has yet taken place, the tenant's application for return of the security deposit is premature. Accordingly, this aspect of his application is hereby dismissed with leave to reapply.

As to the resolution sought by the tenant in regard to his \$500.00 "loan" to the landlord, I find that as this matter does not fall within the jurisdiction of the Act, I have no jurisdiction to make a finding.

In relation to the tenant's claim for reimbursement of the cost of hydro from the upstairs tenant, in the absence of any documentary evidence in support of a particular amount owed, and in the absence of an amended application which shows the amount now sought by the tenant, this aspect of the application is hereby dismissed with leave to reapply. In the meantime, the tenant is encouraged to resolve this matter directly with the upstairs tenant.

As the tenant has not achieved the outcomes sought in his application, his application to recover the filing fee is hereby dismissed.

Conclusion

As set out above, aspects of the tenant's application are variously, outside the jurisdiction of the Act, or dismissed with leave to reapply, or simply dismissed.

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 29, 2011.

Residential Tenancy Branch