



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) to dispute an additional rent increase and for Orders as follows:

1. A Monetary Order for compensation for loss - Section 67;
2. A Monetary Order for return of double the security deposit – Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution and notice of hearing by registered mail on November 18, 2011 in accordance with Section 89 of the Act. The Landlord did not participate in the conference call hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy began on August 1, 2010 and ended on September 31, 2011. At the onset of the tenancy, rent in the amount of \$900.00 was payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$500.00. No move-in or move-out inspections were conducted by the Parties or offered by the Landlord. The Tenant asked the Landlord to complete a move-out inspection however the Landlord failed to agree to any time for such an inspection.

On October 25, 2010, the Tenant signed an addendum to the tenancy agreement that set out an increase of \$50.00 in the monthly rent. The addendum also added a bachelor suite to the tenancy for an additional rental amount that is not disputed. The Tenant states that at the time of the agreement, they wanted a pet in the unit and agreed to the rental increase in order to have the pet in the unit. The Tenant also paid an additional amount of \$300.00 at that time for a pet deposit. The Tenant states that at

the time, they also did not know their rights under the Act and were intimidated into signing the addendum. The Tenant states that the Landlord imposed an illegal rent increase and claims return of the extra \$50.00 for the months of November 2010 to September 2011, inclusive, for a total amount of **\$550.00**.

The Tenant provided the Landlord a forwarding address in writing on October 3, 2011 and states that the Landlord has failed to return the security and pet deposit. It is noted that the Landlord has not filed an application to claim against the security deposit. The Tenant claims return of double the deposit in the amount of **\$1,600.00**.

The Landlord failed to pay 1/3 the amount of an outstanding hydro bill as required by the terms of the tenancy agreement. The Tenant claims the amount of **\$64.21** for unpaid hydro.

At the onset of the tenancy, the unit had plumbing problems, a broken window and unsafe electrical outlets. The Tenant repaired the plumbing problem and the Landlord paid the bill. The Landlord glued or otherwise covered the cracked window pane with a substance resulting in an inability to close the window, heat loss, plant life entering the unit and the development of mould that eventually spread to at least one wall in the unit. Despite requests to the Landlord, the window was never fixed and the electrical sockets were left uncovered and unusable. The Tenant states that as a result of the Landlord's failure to make repairs, the Tenant incurred costs for extra heat and one Tenant was recently diagnosed with mould poisoning. No medical evidence was provided for evidence of this poisoning. The Tenant claims the amount of **\$1,000.00** in compensation for the loss of heat and loss of the use of electrical outlets.

Through the course of the tenancy, the Landlord entered the unit on several occasions without permission. This was very upsetting to the Tenants. On one occasion in July 2011, the Landlord entered the unit while the one Tenant was sleeping and did not leave until the Tenant called the Agent who advised the Tenant to call the police. Following this incident, the Tenant purchased an installed an inside chain to stop the entries however the Tenant believes the Landlord did enter the unit on at least one occasion following the installation of the chain as a piece of tape that the Tenant had covered the door with was missing when the Tenant returned to their unit. The Tenant states that as a result of this interference with their quiet enjoyment, the one Tenant, who was pregnant, suffered stress and had labour problems. The Tenant claims the amount of **\$1,000.00** as compensation for this loss of quiet enjoyment.

The Tenant did not make an application during the tenancy as they were busy making wedding plans and looking for alternate housing.

Analysis

Section 43 of the Act provides that a landlord may impose a rent increase to the amount agreed to by the tenant in writing. As the Tenant agreed in writing to the rent increase, I dismiss this part of the Tenant's claim.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Landlord failed to make an application for dispute resolution claiming against the security deposit, and failed to return the security deposit within 15 days of receipt of the Tenant's forwarding address, I find that the Landlord is required to pay the Tenant double the security and pet deposit in the amount of **\$1,600.00**.

Based on the undisputed evidence of the Tenant and supported by the tenancy agreement, I find that the Tenant has substantiated an entitlement to recovery of the utility costs in the amount of **\$64.21**.

Based on the undisputed evidence of the Tenant, I find that the Landlord failed to make repairs to the unit during the tenancy. I determining the amount of an entitlement, I consider that the repairs were a minor, no evidence was provided to determine a cost for heat loss and no medical evidence was provided to substantiate health problems caused by mold. I therefore find that the Tenant is entitled to a nominal sum for inconvenience in the amount of **\$100.00**.

Based on the undisputed evidence of the Tenant, I find that the Landlord entered the unit without permission on several conditions which breached the Tenants right to quiet enjoyment and caused the Tenants some discomfort. I making a determination of entitlement for such discomfort, I consider that no medical evidence was provided to substantiate that such entry caused a medical problem with the Tenant's pregnancy and I therefore find that the Tenant is entitled to a nominal amount of **\$100.00**.

The Tenant is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,914.20** (\$1,600.00 + 64.21 + 100.00 + 100.00 + 50.00).

Conclusion

I grant the Tenant an order under Section 67 of the Act for the amount of **\$1,914.20**. If necessary, 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: February 01, 2012.

Residential Tenancy Branch