



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

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

1. A Monetary Order for compensation for loss – Section 67;
2. An Order for the return of 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 in accordance with Section 89 of the Act. The Landlord did not attend the 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?

Background and Evidence

The Tenant states that an agreement was entered into with the Landlord for a rental unit with occupancy or move-in date of January 30, 2012. Rent was to be \$675.00 monthly. The Tenant paid the amount of \$100.00 on January 5, 2012 and the remaining amount of \$237.50 on January 10, 2012 for a security deposit. The Tenant paid \$32.16 for a u-haul for the move-in day and arranged a babysitter for her children at the cost of \$50.00. Upon calling the Landlord on January 30, 2012 to arrange for the key pick-up, the Tenant was told by the Landlord that the other tenants had not moved out and that the floors were wet so the Tenant could not move into the unit. The Landlord told the Tenant that the move-in could not occur for at least two weeks. The Tenant requested return of the security deposit but the Landlord refused. As the Parties had not signed a written tenancy agreement, the Tenant did not have the spelling of the Landlord’s name and the Landlord refused to return calls to the Tenant. The Tenant had to carry out a search to obtain the Landlord’s name in order to make the application. As a result of the refusal of the Landlord to allow the Tenant to move into the unit, the Tenant incurred costs for the search, babysitting and truck rental and claims the amount of \$451.58.

Analysis

Section 16 of the Act provides that the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit. Section 7 of the Act provides that if a landlord does not comply with the Act, the regulations or the tenancy agreement, the landlord must compensate the tenant for damage or loss that results.

Based on the undisputed evidence of the Tenant, I find that a valid tenancy agreement was entered into upon the payment of the security deposit for a move-in date of January 30, 2012. By virtue of the agreement, I find that the Tenant had the right to move into the unit. Given the refusal of the Landlord to allow the move-in, I find that the Landlord did not comply with the tenancy agreement and that as a result, the Tenant suffered a loss. Given the evidence of the costs, I find that the Tenant is entitled to **\$451.58**. The Tenant is also entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$501.58** from the Landlord.

Conclusion

I grant the Tenant a monetary order under Section 67 of the Act for **\$501.58**. 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: May 23, 2012.

Residential Tenancy Branch