



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, MNDC, FF

Introduction

This hearing dealt with an application by the tenant for an order for the return of double her security deposit. Both parties were represented at the conference call hearing.

At the hearing, the landlord advised that she had filed an application for dispute resolution and asked that the matter be heard together with the tenant's application. The landlord's claim was set to be heard on October 30. I asked the tenant's agent if he was authorized to address the landlord's application and he advised that he was authorized to act on behalf of the tenant with respect to all tenancy related issues and stated that he would prefer to have the two claims heard together.

As the parties were in agreement that the claims should be heard together, the landlord's claim was brought forward and the hearing set for October 30, 2012 at 9:00 a.m. is cancelled.

After the hearing had concluded, the tenant faxed further evidence to the Residential Tenancy Branch. This evidence has not been considered in this decision as the landlord was not given opportunity to review or respond to it.

Issues to be Decided

Is the tenant entitled to an award of double her security deposit?
Is the landlord entitled to a monetary award as claimed?

Background and Evidence

Most of the facts are not in dispute. The tenancy began in October 2011 at which time the tenant paid a \$675.00 security deposit. The tenancy ended on June 1, 2012 and the tenant gave her forwarding address in writing to the landlord prior to the end of the tenancy.

On June 14, the landlord returned \$295.00 of the security deposit and advised that she was keeping the remainder as compensation for damages.

The landlord testified that the tenant damaged the flooring in the unit. She testified that the flooring was new at the outset of the tenancy and provided photographs taken at the end of the tenancy showing an area in which 3 floorboards were warped. The tenant also provided photographs taken at the end of the tenancy and although her photographs of the affected area were taken from a further distance and at a different angle than those of the landlord, one photograph shows the warped area.

The landlord presented an estimate and an invoice showing that it cost \$380.00 to replace the floorboards. The invoice identifies the work performed as dismounting baseboards and closet doors, replacing flooring, remounting baseboards and closet doors and painting baseboards. The landlord testified that in order to replace the affected floorboards, the baseboards and closet doors had to be temporarily removed.

The landlord also seeks to recover compensation for her time spent dealing with paperwork related to litigation as well as an award for emotional stress.

Both parties seek to recover the filing fees paid to bring their applications.

Analysis

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 the landlord received the tenant's forwarding address before the tenancy ended on June 1 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.

The landlord has returned \$295.00 of the deposit currently holds the balance of \$380.00. The doubled \$675.00 deposit equals \$1,350.00 from which I subtract the \$295.00 returned, leaving a balance of \$1,055.00 which I award the tenant.

Turning to the landlord's claim, I find on the balance of probabilities that the tenant caused damage to the flooring as there is no visible damage prior to the tenancy and there is damage apparent at the end of the tenancy. Although the invoice provided by the landlord is not a typical invoice one would expect to be issued by a business and is formatted more in the style of a letter, I find the cost of repairs to be reasonable and I award the landlord \$380.00.

I dismiss the landlord's claim for her time and emotional stress as dealing with tenancy issues is part of doing business as a landlord.

As both parties have enjoyed some success, I find that they can each bear their own filing fees.

Conclusion

The tenant has been awarded \$1,055.00 while the landlord has been awarded \$380.00. Setting off the awards as against each other leaves a balance owing by the landlord to the tenant. I grant the tenant a monetary order under section 67 for \$675.00. 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: September 11, 2012

Residential Tenancy Branch