



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, MND,

Introduction

This hearing was convened in response to applications by the tenant and the landlord.

The tenant's application is seeking orders as follows:

1. To have the landlord return the tenants personal property.

The landlord's application is seeking orders as follows:

1. For a monetary order for damages to the unit; and
2. Recover the cost of filing fee from the tenant.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary Issues

The landlord has withdrawn his claim for damages to the unit. The landlord is at liberty to reapply.

The tenant application is seeking the return of personal property. However, the evidence filed on September 7, 2012, by the tenant states they are seeking a monetary order for loss of personal property, Section 59 (2) of the Act states an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings.

As a result this hearing proceeded on the issue of a social assistance cheque that the landlord received and cashed for rent after tenancy ended. The issue of monetary compensation for loss of personal items was not dealt and the tenant is at liberty to make that application.

Issue(s) to be Decided

Should the money the landlord received for rent be returned?

Background and Evidence

The parties entered into a fixed term tenancy on July 1, 2011 and the fixed term expired on July 1, 2012. Rent in the amount of \$650.00 was payable on the first of each month. The tenant claims a security deposit of \$325.00, however, the landlord could not remember.

The tenant stated that after the tenancy ended the landlord received a cheque from social assistance. The tenant stated there was no rent owed and she was no longer in the rental unit and feels the landlord is obligated to return the money back to social assistance. The tenant stated social assistance will not issue her a new cheque for rent until the money is returned.

The landlord stated he cashed the rent cheque he received at the end of July, 2012, as he felt he was entitled to the money for damages the tenant caused the rental unit.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The landlord received money from social service on behalf of the tenant for rent. The landlord knew the tenant was no longer living at the rental unit. The landlord did not have the right to cash a rent cheque, when there was no rent owing and the tenancy had ended. At no time does the landlord have the ability to simply keep money because they feel they are entitled to it or are justified to keep it.

I order the landlord to return the \$650.00 he received from social assistant to social assistance forthwith. The landlord is to notify the tenant in writing that he has complied with my order. If the landlord fails to comply with this order the tenant is entitled to reapply.

Conclusion

The landlord is at liberty to reapply for damages to the rental unit.

The tenant is at liberty to apply for monetary compensation for loss of personal items.

The landlord is ordered to return rent money that he was not entitled to receive forthwith.

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.
