



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD and FF

Introduction

This hearing was convened on an application made by the landlord on January 31, 2013 seeking a monetary award for unpaid rent and utilities, damage to the rental unit, recovery of the filing fee for this proceeding and authorization to retain the security and pet damage deposits in set off. The landlord claims a total of \$6,152.20.

At the commencement of the hearing, the tenant raised the following preliminary matters:

1. The tenant requested a ruling on whether the application was made beyond the two-year timeout of time limit within which such application must be made as the tenancy had ended on January 31, 2011 and the Notice of Hearing was dated February 1, 2013. I noted that the landlord's application was made on January 31, 2013 and was, therefore, within the two-year time limit set by section 60 of the *Act*.
2. The tenant had submitted evidence in support of a counter claim; however, he had advised that he had not yet made application. *Residential Policy Guideline 16* provides that a respondent may file a cross application outside of the two-year time limit, but such application must be made before the hearing date set for the primary application. Therefore, the tenant is no longer at liberty to make application.
3. The tenant stated that he had offered the landlord the security and pet damage deposits at the end of the tenancy, and having received no reply had considered that the landlord had accepted that offer.

4. The tenant disclosed that he is currently subject to formal insolvency proceedings and that any judgement against him would have to be added to the present creditors' pool which would further dilute the present disbursement rate of approximately 30 percent.

Settlement Agreement

During the hearing, the parties arrived at the following consent agreement:

1. The tenant agreed that the landlord may retain the security and pet damage deposits of \$875 and \$500 respectively, plus interest;
2. The landlord agrees to withdraw all other claims made with his application;
3. The parties agree that this constitutes full and final settlement of all matters pertaining to the tenancy.

I must commend both parties on their considerate, thoughtful and intelligent resolution of this dispute and the landlord for his professionalism in accepting a monetary loss.

Conclusion

By consent agreement, this matter was settled by way of authorization for the landlord to retain the security and pet damage deposits plus interest.

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: April 25, 2013

Residential Tenancy Branch