



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, OLC, RP, RR, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The landlord confirmed that he received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on July 23, 2013. I am satisfied that the tenant served the hearing package and his written evidence package to the landlord in accordance with the *Act*.

Preliminary Issues

Although the tenant's son (the agent) testified at the hearing that a copy of a CD, a copy of which was submitted to the Residential Tenancy Branch (the RTB), was included with the tenant's evidence package, the landlord denied having received the CD. I advised the parties that I would be unable to consider the tenant's CD evidence as I was not satisfied that it had been provided to the landlord.

On October 7, 2013, the RTB received a letter from the landlord requesting an adjournment of this hearing. The landlord explained in this letter that he had not had time to properly assemble his evidence as he had been very sick for the past two weeks, which made it very difficult for him to speak. The landlord testified that he had not sent a copy of this request, his only written evidence, to the tenant because he did not have his address. I noted that the tenant's application for dispute resolution contained the tenant's mailing address, which the agent confirmed remained the same. As such, I could not consider the landlord's written request for an adjournment, as he had not sent a copy to the tenant at the mailing address the tenant had submitted for the receipt of evidence pertaining to the tenant's application.

While I could not consider the landlord's written request for an adjournment, I advised the parties that the RTB's Rules of Procedure allow me to consider a request for an adjournment, even after a hearing has commenced. The landlord testified that his throat remains very sore and that it was difficult for him to speak. He requested an adjournment of the hearing until at least mid-December. The agent had no objection to the landlord's request.

I noted that I would consider granting the landlord an adjournment, but that this would be for his health reasons only, and not as an opportunity to obtain more time to submit evidence for a hearing the landlord had known about since late July 2013.

At this point, the agent said that his father's true interest in this matter was to obtain an apology from the landlord for the landlord's actions during this tenancy. The agent confirmed that his father who speaks little English had empowered him to act as his agent in this matter and that he had the authority to settle the dispute with the landlord if that were possible.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of the tenant's application and all issues arising out of this tenancy which ended when the tenant vacated the rental unit by April 30, 2013:

1. The landlord agreed to send a negotiable cheque in the amount of \$2,500.00 to the tenant by November 15, 2013.

2. The landlord agreed to send the tenant a written apology for the landlord's actions during this tenancy to be included in the envelope containing the cheque to the tenant by November 15, 2013.
3. The tenant agreed that the landlord's compliance with the terms of this settlement agreement as outlined above satisfies all monetary issues arising out of this tenancy and the tenant's application for dispute resolution.
4. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues arising out of this tenancy.

Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the tenant's favour in the amount of \$2,500.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord does not abide by the terms of the above settlement. The tenant is provided with these Orders in the above terms and the landlord must be served with a copy of these Orders as soon as possible **after a failure to comply with the terms of the above settlement agreement**. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 10, 2013

Residential Tenancy Branch

