



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served by mailing, by registered mail to where the landlord carries on business on September 20, 2013. The Application for Dispute Resolution seeks an order for the return of the security deposit. The tenant stated the landlord has advised him he is returning the security deposit and the tenants withdrew this claim. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on October 1, 2012 when the parties signed a one year fixed term tenancy that would become month to month at the expiry of the fixed term. The rent was \$1200 per month payable on first day of each month. The tenant(s) paid a security was deposit of \$600 at the start of the tenancy.

On July 23, 2013 the landlord gave the tenant a letter that purported to end the tenancy on September 30, 2013. The tenant vacated the rental unit at the end of September.

Analysis

SECTION 51 OF THE RESIDENTIAL TENANCY ACT:

Section 51 of the Residential Tenancy Act provides as follows:

Tenant's compensation: section 49 notice

51 (1) A tenant who receives a notice to end a tenancy under section 49 [landlord's use of property] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

Settlement:

This is a disputed claim. At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The landlords shall pay to the tenants the sum of \$625.
- b. This is a full and final settlement and each party releases and discharges the other from all further claims with respect to this tenancy.

Monetary Order and Cost of Filing fee

As a result of the settlement I ordered the landlord(s) to pay to the tenants the sum of \$625.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: October 17, 2013

Residential Tenancy Branch

