



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit, the return of the cost of utilities and for the recovery of the filing fee.

Both parties attended and were given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit? Is the tenant entitled to the recovery of utility costs and the filing fee?

Background and Evidence

The tenancy started on June 18, 2012 and ended on June 30, 2013. Prior to moving in the tenant paid a security deposit of \$1,000.00.

The tenant provided the landlord with a request for the return of the security deposit in a letter dated July 08, 2013, which also notified the landlord of the tenant's forwarding address.

The landlord stated that the tenant's children wrote on the walls and they needed to be repainted. The landlord made a deduction off the security deposit without the consent of the tenant. On August 07, 2013, the landlord returned \$391.41 to the tenant. The tenant is claiming the return of double the balance of the security deposit.

The tenant stated that as per the tenancy agreement the cost of electricity is included in the rent and filed a copy of the tenancy agreement to support her testimony.

In December 2012, she received a notice from Hydro regarding the amount owing on the account. She contacted the landlord and the parties discussed the issue.

The landlord explained to the tenant that he had checked marked "electricity" as included in the rent, in error and it was not included in the rent. The landlord had instructed the tenant to put the account in her name as he did with all prior occupants of the rental unit.

After the discussion, the tenant paid the bill and continued to cover Hydro through the tenancy. However, the tenant has now made application for the return of \$1,963.93 which is the cost of Hydro through the term of the tenancy.

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.

Based on the sworn testimony of both parties, I find that the landlord was notified of the tenant's forwarding address on July 08, 2013. I further find that the landlord failed to repay the entire amount of the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address.

Therefore, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit. The landlord held a security deposit of \$1,000.00 and is obligated under section 38 to return double this amount along with the accrued interest of \$0.00. Accordingly, the landlord must return to the tenant \$2,000.00. The landlord has already returned \$391.41 and therefore owes the tenant \$1,608.59.

Based on the testimony of both parties, I accept that the landlord check marked "electricity" as included in the rent, in error. The parties discussed the issue in December 2012 and the tenant paid the outstanding bill and continued to pay for the cost of electricity. Therefore I find that at the end of the tenancy, the tenant is not entitled to dispute what is included in the rent, after she agreed to pay for her consumption of electricity. Accordingly, the tenant's claim for \$1,963.93 is dismissed.

Since the tenant has proven a portion of her case, I award her the recovery of the filing fee in the amount of \$50.00.

Overall the tenant has established a claim of \$1,608.59 for the recovery of the security deposit and \$50.00 for the filing fee for a total of 1,658.59. I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The landlord is at liberty to make her own claim against the tenant, for damages

Conclusion

I grant the tenant a monetary order in the amount of **\$1,658.59**.

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: November 05, 2013

Residential Tenancy Branch

