



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD FF

Introduction

This hearing dealt with an application by the tenants for return of the security deposit and further monetary compensation. The tenants attended the teleconference hearing, but the landlord did not.

The tenants submitted evidence to establish that the landlord was served with the application for dispute resolution and notice of hearing by registered mail on August 16, 2013. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the landlord was deemed served with notice of the hearing on August 21, 2013, and I proceeded with the hearing in the absence of the landlord.

Issue(s) to be Decided

Are the tenants entitled to recovery of the security deposit?

Are the tenants entitled to further monetary compensation as claimed?

Background and Evidence

The tenancy began on June 15, 2013. The tenants paid the landlord a security deposit of \$500 and partial rent in the amount of \$775 for the last two weeks of June 2013. The tenants stated that because the previous tenant had not paid their electric bill for long enough that the electricity was cut off, and the tenants therefore had to pay \$100 to have it reconnected. The tenants were unable to get phone and internet, as the lines had been physically ripped out.

The evidence of the tenants was that when they viewed the rental unit in May 2013 the landlord acknowledged that the unit was in poor condition and would need repairs and cleaning before the tenancy began. When the tenants took possession of the unit on

June 15, 2013, the rental unit was filthy and the toilet was broken. The tenants contacted the landlord about the toilet and the landlord did not respond until June 17, 2013, when he informed the tenants that the repair would not be done until June 19, 2013. The tenants informed the landlord on June 18, 2013 that the house was not liveable, and they would be moving out. The tenants vacated the unit on June 21, 2013 and informed the landlord of this by email on June 23, 2013. In the email the tenants also provided their written forwarding address. The landlord responded to the tenants' email on the same date. In support of their application the tenants submitted several photographs depicting the condition of the rental unit, and copies of emails between the landlord and the tenants.

The tenants have applied for return of their security deposit, the \$775 paid in rent, and reimbursement of the \$100 electricity reconnection fee.

Analysis

Based on the tenants' undisputed evidence, I find as follows.

The tenants are entitled to recovery of the \$775 they paid in rent. The landlord clearly did not provide the tenants with a habitable rental unit, and he therefore fundamentally breached the tenancy agreement. The tenancy therefore ended on June 15, 2013, and the tenants are entitled to recovery of their rent.

In regard to the security deposit, section 38 of the Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit.

In this case, the tenancy ended on June 15, 2013, and the tenants provided their forwarding address in writing on June 23, 2013. The landlord has failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing. I therefore find that the tenants are entitled to double recovery of the security deposit, in the amount of \$1000.

The tenants did not provide an invoice or receipt for the electricity reconnection fee, and I therefore dismiss that portion of their claim.

As the tenants' application was mostly successful, I find they are entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

I grant the tenants an order under section 67 for the balance due of \$1825. This order may be filed in the Small Claims 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: December 6, 2013

Residential Tenancy Branch

