



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAGSEN REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC ERP RP

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "Act"). The tenant applied for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to make emergency repairs for health or safety reasons, and to make repairs to the unit, site or property.

The tenant, an advocate for the tenant, and an agent for the landlord (the "agent") attended the hearing. The parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

The parties confirmed receiving the evidence package from the other party and that they had the opportunity to review the evidence prior to the hearing. I find the parties were served in accordance with the Act.

Preliminary Matter

At the outset of the hearing, the parties mutually agree to correct a spelling error in the tenant's application regarding the name of the landlord. As a result, the tenant's application was amended to the correct spelling of the name of the landlord.

Settlement Agreement

During the hearing, the parties agreed to settle all matters related to the tenant's application, on the following conditions:

1. The parties agree that the monthly rent between October 2013 and January 2014 has been reduced to **\$1,250.00** per month by mutual agreement of the parties due to flooding in the rental unit in August 2013 and September 2013.
2. The landlord agrees that the tenant has overpaid rent in the amount of \$3,750.00 as of the date of this hearing.
3. The parties agree that the tenant will be compensated **\$2,500.00** due to the impact the flooding has had on the health of the tenant.
4. The landlord agrees that \$1,250.00 of the compensation described in #3 above will be applied to January 2014 rent of \$1,250.00, resulting in a **zero balance** owing for January 2014 rent as a result.
5. The landlord will repay the tenant the **\$3,750.00** overpayment of rent described in #2 above, plus the net balance owing to the tenant of **\$1,250.00** described in #3 and #4 above, for a total amount owing by the landlord to the tenant in the amount of **\$5,000.00**. The landlord agrees to have a cheque ready for the tenant to pick up from the landlord on **December 13, 2013 between 2:00 p.m. and 5:00 p.m.** The address of the landlord was confirmed by the parties during the hearing.
6. The landlord agrees to return the tenant's January 2014 post-dated rent cheque in the amount of \$2,500.00 by attaching the post-dated cheque to the cheque from the landlord described in #5 above.
7. The tenant withdraws her application in full as part of this mutually settled agreement.
8. The tenant is granted a monetary order pursuant to section 67 of the *Act* in the amount of **\$5,000.00** which will have no force or effect if the landlord pays the tenant in accordance with #5 above, and the cheque is successfully cashed by the tenant.

This settlement agreement was reached in accordance with section 63 of the *Residential Tenancy Act*.

Conclusion

I order the parties to comply with the terms of their settled agreement described above.

The tenant has been granted a monetary order in the amount of **\$5,000.00** which will be of no force or effect if the amount owing has been paid as described above. If the landlord does not pay the amount as described above, this order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 10, 2013

Residential Tenancy Branch

