



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, O

Introduction

This is an application filed by the Tenant for a monetary order for money owed or compensation for damage or loss and for the return of the security deposit.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the submitted documentary evidence, I am satisfied that both parties have been properly served.

Both parties confirmed that the Landlord informed him that she does not have to comply with the Residential Tenancy Act, claiming, “we shared a kitchen and a bathroom”, but that she was on the premises only about 4 days out of the month as her primary residence is in Alberta. Both parties confirmed in their direct testimony that although they share a kitchen a bathroom was not shared as each had their own and that the Landlord only resided at the rental property 3-4 times a month as her primary residence was elsewhere.

I find that the Landlord's claim that Section 4 applies is flawed as there is no shared accommodation as each party has their own bathroom for use. Both parties also agreed that this was not the Landlord's primary residence and was only used when she was visiting from her primary residence. Section 4 in this case does not apply. The hearing shall proceed.

During the hearing it was clarified with both parties that the security deposit was returned and that the claim was for an unreturned portion of the monthly rent and compensation.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

Both parties confirmed that there is no signed tenancy agreement, but that there was a verbal one in which the monthly rent was \$600.00 and a \$250.00 security deposit was paid and returned to the Tenant.

The Tenant seeks a monetary claim of \$1,160.00. This consists of \$560.00 (\$280.00 X 2) which is double the \$280.00 in rent for vacating the rental unit with 14 days remaining in the month and \$600.00 for emotional distress and relocation expenses which the Tenant states would not have been incurred if he had stayed at the rental unit for the last 14 days of the month. The Tenant also seeks punitive damages for breaching the Canadian Charter of Rights and Freedoms.

Both parties confirmed in their direct testimony that the Landlord requested the Tenant to vacate the rental at the end of June 2013 only providing him 2 days before the end of the month. Both parties confirmed that the Tenant stayed until July 17, 2014. The Landlord confirms that the Tenant paid all of the July 2013 rent of \$600.00 and that the both parties are disputing the remaining portion of \$280.00 for the last 14 days. The Landlord stated that she did not know that she would have to return the remaining portion of the monthly rent to the Tenant.

Analysis

Residential Policy Guideline #16 states,

An arbitrator does not have the authority to award punitive damages, to punish the respondent.

On this issue of punitive damages, the Tenant's request is denied.

The Tenant also seeks the return of double the unreturned rent portion of \$280.00 stating that the Landlord should be penalized for not complying with the Act. I find that there are no provisions for the doubling of a disputed amount. On a limited basis, I prefer the evidence of the Tenant over that of the Landlord. As such, the Tenant's claim for double the \$280.00 is dismissed. However, based upon the direct testimonies of

both parties, the Tenant complied with the Landlord's request to vacate the rental unit and is entitled to the return of the unused portion of monthly rent of \$280.00. Neither party submitted any details of any agreement between the two parties regarding the outcome of the unused portion of the rent.

On the Tenant's request for compensation of \$600.00 for emotional distress and relocation expense, I find that the Tenant has failed to provide sufficient evidence to satisfy me or of any reasoning to quantify his claim of compensation. As well, it is noted that the Tenant failed to provide even the simplest details of his relocation expenses in the form of an itemized list. This portion of the claim is dismissed. However, I find that the Tenant has established that an inconvenience took place when he complied with the Landlord's request to vacate the rental unit. Both parties were responsible for a lack of communication as well. I grant a nominal award of \$50.00.

The Tenant has established a total monetary claim of \$330.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant is granted a monetary order for \$330.00.

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: March 18, 2014

Residential Tenancy Branch

