



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF,O

Introduction

This hearing dealt with the tenant's Application for seeking a monetary order for recovery of double his security deposit and the estimated value of his personal belongings. The landlord applied for compensation for the cost of her time in defending against the tenant's claims which she alleges were settled. The hearing was conducted via teleconference and was attended by the tenant and the landlord.

Issue(s) to be Decided

Was there a settlement?

Whether the tenant or landlord is entitled to a monetary order?

Background and Evidence

The parties admitted service of their respective applications.

The landlord SK testified that the tenancy began with RH on November 23, 2014 as a month to month tenancy with a monthly rent of \$ 700.00 due on the 1st of each month and that a security deposit of \$ 375.00 was paid on October 15, 2013.

SK testified that at the commencement of the tenancy the previous tenant who was distantly related to RH, left behind some furniture and kitchenware informing the landlord that she could do what she wanted with those items. SK testified that she advised RH when he moved in that he could use these items for his tenancy but must leave them behind when he moved out. SK testified that he agreed. SK testified that she conducted a move in inspection and provided RH with a written signed copy on

November 22, 2013. SK testified that RH moved out on March 28 2014 and she conducted a move out inspection in his presence on March 29, 2014. During that time the landlord noted that the carpet needed cleaning which she had advised the tenant previously was his responsibility and that the suite needed cleaning. SK testified that RH stated " I am done with you. You can keep my deposit." SK testified that she advised RH that she had no idea what the cost was going to be so she would not simply keep his deposit. The tenant RH left the unit without providing a forwarding address. SK testified that subsequently she incurred costs in cleaning the carpets, suite cleaning , and supervising the same. She arranged a meeting with RH on April 6, 2014 whereupon she presented him with a letter dated April 1, 2014 itemizing all her cleaning and administrative costs and unpaid late payment fees totaling \$ 359.00. SK testified that she and RH signed the document and she paid him \$ 16.00 cash. The document also contained the following clause above the signature lines

The tenant agrees in full to the above deductions and acknowledges receipt of the balance of \$ 16.00 cash. This hereby settles and concluded all matters pertaining to this tenancy.

SK testified that she also filled in the paragraph on page two of the move out condition inspection report on April 6, 2014 indicating that the tenant RH agreed to the deduction of 375.00 from his security deposit. SK testified that RH signed that paragraph and she gave him a copy of both those documents. SK provided copies of these documents and the tenancy agreement as evidence.

SK testified that at the end of the tenancy she reminded RH that he must leave the property behind that was there before his tenancy commenced. SK testified that RH claimed on March 29, 2014 that an antique clock was missing and she suggested he report it to the police as she did not know anything about it.

SK is claiming the sum of \$ 1,000.00 representing compensation for her lost time in preparation for and attending this hearing to refute RH's claim which she alleges is unfounded.

The tenant RH testified that the previous tenant was his niece and she told him he could keep all of her leftover belongings. RH testified that upon his move out the landlord did not return those personal belongings for which he is claiming \$ 300.00 which he estimates to be their value.

RH testified that SK had not conducted a move in or move out inspection and had not provided him with any copies of the reports. He denied signing any of the reports and denied signing the letter dated April 1, 2014, which acknowledged his receipt of \$ 16.00 remaining from his security deposit. He denied receiving any of his deposit back. He denied receiving copies of the move in, move out reports and the letter dated April 1, 2014 until SK sent them to him as evidence in support her application. He testified that the signatures on these documents purporting to be his are forgeries as he never

signed any of them. RH is also claiming double his security deposit back pursuant to section 38 of the Act.

Analysis

I have examined copies of the tenancy agreement, the move in and move out reports and the letter dated April 1, 2014. I have compared all of the signatures. It appears to me that all of the signatures purporting to be the tenant's are very similar if not exactly the same. There is a rule in law that a written document cannot be contradicted by parol (extraneous) evidence unless for example the document was obtained through fraud. RH has alleged fraud. The standard of proof in fraud is very high as it is a very serious allegation.

In this matter I find that RH has simply denied signing the documents. The parol evidence rule dictates that the integrity of the document(s) must be respected except in very rare and exceptional circumstances. The standard of proof to contradict a document is very high. All the documents bear signatures, which are very similar to RH's on the tenancy agreement. I cannot accept, or give any weight to his mere denial of his signatures on the other two documents. I find that all the documents are binding. I find that RH has signed a move out report on April 6, 2014 permitting the landlord to retain \$ 375.00 from his deposit and similarly signed a letter on April 6, 2014 authored by the landlord on April 1, 2014 acknowledging the deduction and stating that *"This hereby settles and concluded all matters pertaining to this tenancy."* I find that RH is legally bound by the move out report and the letter of April 1, 2014 both of which he signed on April 6, 2014.

Accordingly I find that he permitted the landlord to retain \$ 375.00 from his security deposit. I also found that the landlord's evidence was clear, detailed, unembellished and believable. I accept all of her evidence and prefer it wherever there was any inconsistency. I find that she paid RH the sum of \$ 16.00 in complete settlement of his security deposit. Accordingly as RH has "settled all matters pertaining to his tenancy" I have dismissed all of his claims herein.

I find that the landlord SK's claims for loss of time are not contemplated by the Act. Furthermore her lost time in defending RH's claim and attending the hearing is a price that every landlord must pay. In other words it is the cost of doing business as a landlord. Accordingly I have dismissed all of her claims.

Conclusion

I have dismissed all of the landlord and tenant's claims. There will not be any recovery of the filing fees by any party.

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: August 26, 2014

Residential Tenancy Branch

