



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Dispute Codes MNSD FF

Introduction

This hearing dealt with an application by the tenant for double recovery of the security deposit and further monetary compensation. The tenant and two agents for the landlord attended the teleconference hearing.

At the outset of the hearing, the landlord confirmed that they had received the tenant's application and evidence. The landlord did not serve their evidence on the tenant and I therefore did not admit the landlord's documentary evidence. Both parties were given full opportunity to give affirmed testimony and present their admissible evidence. I have reviewed all testimony and other admissible evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to double recovery of the security deposit?
Is the tenant entitled to further monetary compensation as claimed?

Background and Evidence

The tenancy began in January 2014, with monthly rent of \$830. The parties agreed that internet access and access to laundry facilities were services included in the rent. The tenant paid the landlord a security deposit of \$415.

On July 14, 2014 the landlord served the tenant with a notice to end tenancy for cause. The notice indicated that the tenancy would end on August 31, 2014. The tenant submitted a copy of the notice that has the words "or sooner" written below the effective date.

On August 20, 2014 the tenant texted the landlord to inform them that she would have all of her belongings moved out by late that evening. The landlord replied by text that

the tenant could hand back the keys on August 31, 2014, the date that the tenant had told the landlord one week earlier was going to be her move-out date. The tenant stated that she did not write the words “or sooner” on the notice to end tenancy. The tenant provided evidence that on August 27, 2014 she sent her forwarding address to the landlord via Xpresspost, and the Canada Post website shows that the landlord did not pick up the letter.

Tenant's Claim

The tenant claimed the following compensation:

- 1) \$830 for double recovery of the security deposit – the tenant stated that she provided the landlord with her written forwarding address on August 27, 2014, and the landlord did not return the deposit or make an application to keep the deposit within 15 days of that date;
- 2) \$51.85 for internet costs and \$57 for laundry costs – the tenant stated that on the landlord changed the password for internet access and denied the tenant access to the laundry, without reducing the rent for the termination of these services. As a result, the tenant had to set up her own internet access and pay browsing fees, and had to use a laundromat to do her laundry. In support of this portion of her application, the tenant submitted a letter written by the landlord, which is dated July 14, 2014 and indicates “due to breach of trust – laundry + internet access have been denied”; and
- 3) \$294.60 for prorated rent for August 2014 – the tenant submitted that because she only occupied the rental unit for 20 days that month, she should be reimbursed for the remaining 11 days in August. She stated that the landlord wanted the tenant to vacate sooner than the end of August if possible, as noted on the notice to end tenancy.

Landlord's Response

In regard to the security deposit, the landlord stated that they mailed the tenant a cheque for \$415 on September 17, 2014, but the cheque was never cashed. The landlord acknowledged that they changed the internet password, because the tenant had given the password to her mother and friends. The landlord stated that at no time did they tell the tenant not to use the laundry. The landlord stated that they did not ask or advise the tenant to leave sooner than the effective date of the notice to end tenancy.

Analysis

Security Deposit

Section 38 of the *Residential Tenancy 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 amount of the security deposit.

In this case, the tenant mailed her forwarding address in writing on August 27, 2014, and the landlord was deemed to have received it on September 1, 2014. The landlord stated that they mailed the tenant a cheque for the amount of the security deposit on September 17, 2014. Whether the tenancy ended on August 20, 2014 or August 31, 2014, the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of the tenancy ending or receiving (or being deemed to have received) the tenant's forwarding address in writing. I therefore find that the tenant has established a claim for double recovery of the security deposit, in the amount of \$830.

Further Monetary Compensation

I find that the tenant is entitled to compensation as claimed for internet and laundry costs. The laundry and internet access were included in the rent, and on July 14, 2014, the landlord indicated to the tenant in writing that her access to these services was "denied." A landlord cannot remove a service or facility included in rent without reducing the rent in an amount that reasonably represents the cost of those services.

I find that the tenant is not entitled to compensation for prorated rent as claimed. The words "or sooner" written on the notice to end tenancy do not comply with the Act, and the tenant was under no obligation to vacate sooner than the effective date on the notice. The tenant chose not to dispute the notice to end tenancy, and she chose to move out earlier than the effective date. The tenant did not give the landlord advance notice that she would be moving out sooner than the effective date of the notice, and therefore the landlord would not be able to re-rent the unit sooner than the effective date.

As her application mostly successful, the tenant is also entitled to recover the \$50 filing fee for the cost of this application.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$988.85. 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: April 24, 2015

Residential Tenancy Branch

