



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. A Monetary Order for unpaid rent or utilities - Section 67;
2. A Monetary Order for compensation - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord's evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not attend the hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on November 15, 2012. At the outset of the tenancy the Landlord collected \$650.00 as a security deposit and \$70.00 as a pet deposit.

On July 2, 2014 the Landlord sold the unit to the Tenant with a possession date of July 31, 2014. The Parties also agreed that at the end of the tenancy, in exchange for the oil left in the tank and the Tenant's retention of the weed eater and lawn mower, the Landlord would keep the security deposit. This agreement was not put in writing or included in the terms of the purchase and sale. The Tenant did not return the lawn mower or weed eater and did not pay for the oil.

On March 22, 2015 the Tenant attended the Landlord's residence and irately demanded that the Landlord repay monies. The Landlord was not sure what the Tenant was talking about and as the Tenant became aggressive the police were called and the Landlord was encouraged to make this application. The Landlord provided a copy of a letter from the Tenant, dated March 22, 2015 requesting return of the security deposit. The Landlord claims the loss of the lawn mower, weed eater and oil that was not returned or paid for by the Tenant. The total monetary losses are \$1,450.00 and the Landlord claims only up to the amount of the combined security and pet deposit. The Landlord does not want any money and is not seeking any monetary order.

Analysis

Section 38(4) of the Act provides that a landlord may obtain an order to retain a security or pet deposit. Based on the undisputed evidence of the Landlord I accept that the sale of the unit did not include the remaining oil, or the weed eater and lawn mower. I also accept that during the tenancy the Parties agreed that at the end of the tenancy the Tenant would retain these items at no cost in exchange for the Landlord's retention of the security and pet deposit. As the Tenant did not return or pay for the items and accepting that the total value of the items were in excess of the amount of the security deposit, I find that the Landlord is entitled to retain the security and pet deposit of **\$720.00** plus zero interest. As the Landlord specifically declined any monetary order, I take this to be a withdrawal of the claim to retain the filing fee.

Conclusion

I Order the Landlord to retain the security and pet deposit plus interest in the amount of \$720.00 in full satisfaction of the claim.

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: September 02, 2015

