



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

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

1. A Monetary Order for compensation - Section 67;
2. An Order for the return of double the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

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

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Background and Evidence

The tenancy was to begin on February 1, 2015 on a fixed term to end January 31, 2016. At the outset of the tenancy the Landlord collected \$875.00 as a security deposit and \$875.00 as a pet deposit. The Tenant was given the keys to the unit on January 26, 2015 and on January 29, 2015 the Tenant went to the unit to start the move-in. The unit was not cleaned and mold was growing on the walls in the basement. The Tenant moved in a couple of items and stayed in the unit cleaning for about 4 hours until the

Tenant became ill and went to the emergency. The Tenant was diagnosed with a severe allergy to mold.

Upon returning from the emergency the Tenant sent a message to the Landlord detailing the problems with the unit however the Landlord did not respond. The Tenant thought that the Landlord would respond and tell the Tenant how the Landlord was going to resolve the state of the unit and make repairs. Instead in the morning of January 31, 2015 the Landlord sent a message to the Tenant stating that if the Tenant wanted to move to let the Landlord know and the Landlord then listed the unit on line for immediate rent. The Tenant returned the keys to the Landlord on January 31, 2015 by placing the keys and a letter containing the Tenant's forwarding address into the Landlord's mail box.

The Tenant claims costs of the move and the return of double the security deposit.

Analysis

Section 32 of the Act provides that a landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant. Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. Based on the undisputed evidence of the Tenant I find that the Landlord failed to provide a unit that was suitable for occupation, failed to act to repair the unit and ended the tenancy by putting the unit up for rent. I find that these actions caused moving and storage costs to the Tenant. Given the receipts for these costs I find that the Tenant has substantiated an entitlement to **\$709.13**.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution

claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Based on the Tenant's undisputed evidence of payment of the security and pet deposit, provision of the forwarding address and no return of the security and pet deposit from the Landlord I find that the Tenant has substantiated the return of double the combined security and pet deposit plus zero interest of **\$3,500.00** (1,750.00 x 2).

As the Tenant has been successful the Tenant is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$4,259.13**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for the amount of **\$4,259.13**. If necessary, 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: October 13, 2015

Residential Tenancy Branch

