



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened to address a claim by the tenant for monetary order and an order for the return of double his security deposit. Both parties participated in the conference call hearing.

At the hearing, the landlord indicated that he had evidence to submit in rebuttal to the tenant's claim and asked to submit that evidence after the hearing, saying he had not read "the fine print" on the documents served with the tenant's application which explained that he had to serve his evidence on the Residential Tenancy Branch and on the tenant in advance of the hearing. I denied the landlord's request as he had 5 months in which to provide this evidence and as it was incumbent upon him to ensure he was familiar with the Rules governing this process.

Issue to be Decided

Is the tenant entitled to the monetary order claimed?

Background and Evidence

The parties agreed that the tenancy began in October 2011 at which time the tenant paid a \$600.00 security deposit and ended on or about September 2, 2014. They further agreed that the landlord received the tenant's forwarding address in writing on September 24.

The tenant seeks to recover \$1,378.23 for materials and \$1,760.00 for labour expended to renovate a bathroom in the rental unit and insulate a shop on the residential property. The tenant testified that the bathroom required repairs and he offered to renovate the bathroom for the cost of materials, which he estimated to be between \$500.00 and \$800.00 and offered his labour for free. The tenant testified that the landlord accepted this offer. The tenant further testified that the parties did not have an agreement that the tenant would insulate the shop, but he told the landlord he would install insulation

“out of the goodness of his heart” and in appreciation for the landlord allowing him to use the shop. The tenant now seeks to recover all of the materials and the value of his labour as his tenancy ended and he is frustrated that the landlord failed to pay him as promised.

The landlord testified that he agreed that the tenant could perform some required repairs to the bathroom and that he would pay for the materials, but stated that there was no specific agreement as to the value of those materials and that it was only after the renovation had been completed that he agreed to pay \$800.00. The landlord denied having agreed to the improvements the tenant made to the shop.

The tenant seeks to recover \$400.00 as the value of a loan the landlord asked the tenant to give to the tenant’s former co-tenant and the landlord’s friend. The landlord agreed that he asked the tenant to loan money to this individual.

The parties agreed that the landlord had permitted the tenant to withhold \$600.00 from his rent during the tenancy. The landlord testified that \$400.00 of this sum was designed to compensate the tenant for the loan to their mutual friend and the remaining \$200.00 was to be applied to the \$800.00 the landlord agreed to pay the tenant for renovations to the bathroom.

The tenant seeks to recover double his security deposit as the landlord has not returned the deposit and has not filed for arbitration to retain the deposit. The landlord testified that the tenant left significant damages in the unit which exceeded the amount of the security deposit.

The tenant also seeks to recover the \$50.00 filing fee he paid to file his application.

Analysis

Tenants who perform improvements to a rental unit do so for their own benefit and are not entitled to compensation or reimbursement unless the improvements may be characterized as emergency repairs as defined under section 33 of the Act or an enforceable contract exists between the parties. I find that neither the renovations to the bathroom or the work in the shop can be characterized as emergency repairs. I find that an agreement existed between the parties that the landlord would pay a reasonable amount for materials, which either before or after the work was completed, they both agreed was \$800.00. I find that the tenant volunteered his labour and cannot now change his mind and demand to be compensated for it. I find that no agreement was in place between the parties whereby the landlord offered to pay the tenant any amount for the cost and labour expended in insulating the shop. I find that the landlord repaid

the tenant \$600.00, \$400.00 of which was designed to compensate the tenant for the loan to their mutual friend (a matter over which I have no jurisdiction) and \$200.00 for the work on the bathroom renovations. I therefore find that the landlord still owes the tenant \$600.00 for the materials purchased for those renovations and I award the tenant \$600.00.

Section 38(1) of the Act provides that within 15 days of the later of the last day of the tenancy and the date the landlord receives the tenant's forwarding address in writing, the landlord must either return the deposit in full to the tenant or file an application for dispute resolution to make a claim against the deposit. Section 38(6) of the Act provides that where a landlord fails to comply with section 38(1), the landlord must pay to the tenant double the security deposit.

I find that the tenant paid a \$600.00 security deposit and vacated the rental unit on September 2 and that the landlord received the forwarding address in writing on September 24. I find that the landlord failed to comply with section 38(1) and is now liable to pay the tenant double the security deposit. I therefore award the tenant \$1,200.00.

I note that the landlord believes that he incurred costs as a result of the tenant's failure to adequately clean and repair the unit. The landlord is free to file a claim against the tenant for a monetary order.

As the tenant has been successful in his claim, I find he should recover the \$50.00 filing fee paid to bring his application and I award him that sum for a total award of \$1,850.00. I grant the tenant a monetary order under section 67 for that sum. 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 \$1,850.00.

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: October 22, 2015

Residential Tenancy Branch

