



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the tenant filed August 21, 2015 for an order for the return of the security deposit and compensation for loss, and for the recovery of the filing fee. Both parties attended the hearing and were given opportunity to present evidence and make submissions.

The landlord acknowledged receiving evidence of a one page letter from the tenant on September 16, 2015, claimed by the tenant to be the *undated letter* sent to this hearing and received September 30, 2015. The tenant further claims to have provided this hearing with additional evidence, including a series of photographs, which were not received by this hearing nor the landlord. The landlord claims they sent the tenant 8 pages of evidence by *ExpressPost* without requirement for a signature: which the tenant claims not to have received. The landlord explained their evidence is in support of their own claim against the tenant – which is not the subject of this matter.

I accepted the tenant's one page *undated letter* as the sole item of admissible evidence in this matter. The hearing proceeded on the merits of the tenant's application.

Issue(s) to be Decided

Is the tenant entitled to the monetary amounts claimed?

Background and Evidence

It must be noted that the same parties were before an Arbitrator on October 22, 2015 at which time the tenant withdrew their application for a monetary order.

The tenancy began October 01, 2013. At the outset of the tenancy the landlord collected a security deposit of \$750.00 which they retain in trust. The tenant vacated August 31, 2015 after filing this application on August 21, 2015 and subsequent to both

events provided the landlord with their monetary claim within a one page letter, which now further included the tenant's forwarding address. The tenant testified they possess additional evidence in support of their monetary claim for loss but did not provide this evidence to the hearing. The tenant testified as to the nature of their claim: for replacement of a lap top, a mattress, dual rent for August 2015, moving costs, a new security deposit, and a "one-time" claim for the differential in rent for their new living accommodations. The tenant acknowledged not providing evidence in support of their claims for loss and was satisfied to simply recover their security deposit.

The landlord testified they awaited this hearing to address the tenant's claims with which they disagree in their entirety.

Analysis

In respect to the tenant's claims *for loss* – and not in respect to the security deposit – I find the tenant has not provided sufficient evidence to support their claims. As a result, I **dismiss** this portion of the tenant's claim for loss, without leave to reapply.

In respect to the tenant's claim for the return of their security deposit, I find that the tenant did not provide the landlord with their forwarding address until more than 2 weeks after filing their application. I find it reasonable for a landlord to contemplate a written notice of a forwarding address in a separate, or in the least, an earlier document than after the application has been filed seeking return of the deposit. Further I find it reasonable for a landlord who receives the forwarding address, after receiving the application, may be led to believe that because the matter is already scheduled for a hearing and to be adjudicated it is too late for them to file a claim against the deposit.

I find that the landlord is effectively now in receipt of the tenant's forwarding address and now must deal with it pursuant with **Section 38** of the Act, and that this hearing date is the date deemed received by the landlord.

Both parties were informed in this hearing that the landlord has 15 days **from the date of this hearing – November 02, 2015** - to deal with the security deposit in accordance with **Section 38** the Act. The landlord is informed to consult the Act in this regard and if necessary seek the information services of the Residential Tenancy Branch. As a result of all the above, the tenant's application for the return of the security deposit is **dismissed** *with leave to reapply for double the amount*, if the landlord does not return the deposit within 15 days of this hearing, or within the same 15 days does not file for dispute resolution claiming against the deposit.

Conclusion

The tenant's application for loss is **dismissed**, *without leave to reapply*.

The tenant's application for return of their security deposit is **dismissed**, *with leave to reapply*, as indicated.

This Decision is final and binding on both parties.

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: November 02, 2015

Residential Tenancy Branch

