



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MDC, MNSD, OLC, FF, SS

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to serve documents or evidence in a different way than required by the Act pursuant to section 71; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

Both tenants and the landlord appeared.

Preliminary Issue – Service of Evidence

The landlord admitted she did not serve the tenants with her evidence or submissions.

The tenant JA testified that she served two packages to the landlord: one by registered mail and one by regular mail. The tenant JA could not testify with any certainty as to the evidence contained in the packages. The landlord testified that she only received one package. The landlord reviewed the contents of the tenants' evidence received with me. The landlord was in possession of many emails I was not; I was in possession of many emails the landlord was not.

The parties were cautioned that, in the event that this application proceeded by way of adjudication, only the evidence duly served on the opposing party would be considered.

Preliminary Issue – Landlord's Claim

It was apparent from the landlord's evidence and submissions that she believed she had a claim against the tenants for damage and losses associated with the tenancy. The landlord had not yet filed a claim.

I explained to the landlord at the hearing that in order to advance this claim she must file her own claim. I explained to the parties that the landlord's claim could be dealt with by way of a settlement, but the claim was not properly before me for the purposes of adjudication.

Preliminary Issue – Information Provided in Course of the Hearing

At the hearing, I informed the landlord of the statutory provision I am obligated to apply in cases involving return of a security deposit. At the hearing, I read section 38 to the parties.

Analysis

Pursuant to section 63 of the Act, an arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their disputes.

During this hearing, the parties reached an agreement to settle their disputes under the following final and binding terms:

1. The tenants agreed to withdraw their application.
2. The tenants acknowledged that they were waiving their right to compensation pursuant to subsection 38(6) of the Act.
3. The landlord agreed to return the tenants' security deposit in the amount of \$825.00 to the tenants.
4. The landlord and tenants agreed that no further claims would be brought by either party in respect of this tenancy, which has ended.

Each party stated that they understood the terms of this agreement. The parties agreed that these particulars comprise the full and final settlement of all aspects of their disputes for both parties.

Conclusion

The tenants' application is withdrawn.

The monetary order is to be used if the landlord does not pay \$825.00 to the tenants in accordance with their agreement. The tenant is provided with this order and the tenant should serve the landlord with this order so that the tenants may enforce it in the event that the landlord does not pay the amount as set out in their agreement. Should the tenant(s) fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial 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 subsection 9.1(1) of the Act.

Dated: November 30, 2015

Residential Tenancy Branch

