



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LI-CAR MANAGEMENT GROUP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, FF; MNDC, MNSD, O

Introduction

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

- a monetary order for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of double the amount of the security deposit, pursuant to section 38; and
- "other" unspecified remedies.

The tenant and her two advocates, JM and DF (collectively "tenant") and the landlord's agent, KH ("landlord") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the rental property manager and that she had authority to represent the landlord company named in this application as an agent at this hearing. The tenant confirmed that her two advocates had authority to represent her at this hearing.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's Application.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package, including an amendment to the application and written evidence served in the week before this hearing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's application, amendment and written evidence package. The tenant confirmed that she was ready to proceed with this hearing on the basis of the landlord's application, amendment and written evidence package, despite the fact that it was received less than 14 days prior to this hearing, contrary to Rule 3.14 of the Residential Tenancy Branch *Rules of Procedure*. Accordingly, the hearing proceeded and the landlord's application was amended pursuant to section 64(3)(c) of the *Act*, as the monetary order was reduced from \$685.75 to \$502.46 plus the \$50.00 filing fee.

As per section 64(3)(c) of the *Act*, I amended the landlord's application to correct the tenant's surname, as the tenant consented to the landlord's requested amendment. The change is now reflected in the style of cause.

At the outset of the hearing, the tenant confirmed that she wished to withdraw her application for "other" unspecified remedies. Accordingly, this portion of the tenant's application was withdrawn.

Issues to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?

Is the landlord entitled to retain the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for its application from the tenant?

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

Is the tenant entitled to a monetary award equivalent to double the value of her security deposit as a result of the landlord's failure to comply with the provisions of section 38 of the *Act*?

Background and Evidence

Both parties agreed that this tenancy began on July 1, 2010 and ended on June 30, 2015. Monthly rent in the amount of \$938.00 was payable on the first day of each month. Both parties agreed that a security deposit of \$450.00 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was provided for this hearing. Both parties agreed that move-in and move-out condition inspection reports were completed for this tenancy. Copies of both reports were provided for this hearing. Both parties agreed that the tenant provided a written forwarding address on the move-out condition inspection report on July 2, 2015. The landlord filed its application on July 9, 2015.

The landlord seeks a monetary order of \$502.46 for cleaning, garbage removal and painting performed after the tenant vacated the rental unit. The landlord also seeks to recover the \$50.00 filing fee paid for its application. The tenant seeks to recover double the amount of her security deposit, totaling \$900.00, for the landlord's failure to return it within 15 days of the tenant providing a written forwarding address to the landlord.

Analysis

Pursuant to section 63 of the *Act*, the 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 dispute.

Both parties agreed to the following final and binding settlement of all issues with respect to this entire tenancy:

1. Both parties agreed that the landlord will retain \$225.00 from the tenant's security deposit;
2. Both parties agreed that the landlord will return \$225.00 from the tenant's security deposit to the tenant by December 31, 2015;
3. The landlord agreed to bear the cost of the \$50.00 filing fee paid for its application;
4. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications at this hearing and any issues arising out of this tenancy; and
5. Both parties agreed that they will not initiate any further claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise a full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties testified at the hearing that they understood and agreed to the above settlement terms, free of any duress or coercion. Both parties testified that they understood that the settlement terms are legal, final, binding and enforceable, settling all aspects of this dispute and arising out of this tenancy.

Conclusion

To give effect to the settlement reached between the parties, I order the landlord to retain \$225.00 from the tenant's security deposit.

The landlord must bear the cost of the \$50.00 filing fee paid for its application.

In order to implement the above settlement reached between the parties and as advised to both parties during the hearing, I issue a monetary Order in the tenant's favour in the amount of \$225.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord fails to abide by condition #2 of the above agreement. The tenant is provided with this Order in the above terms and the landlord must be served with a copy of this Order in the event that the landlord fails to abide by condition #2 of the above agreement. Should the landlord 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.

The tenant's application for "other" unspecified remedies is withdrawn.

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: December 03, 2015

Residential Tenancy Branch

