



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord and an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord applied on July 30, 2015 for:

1. A Monetary Order for damage to the unit - Section 67;
2. A Monetary Order for compensation - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant applied on July 31, 2015 for:

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

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Did the Tenant by act or negligence cause damage to the unit?

Is the Tenant entitled to return of double the security deposit?

Background and Evidence

The tenancy started on August 1, 2014 and ended on July 19, 2015. Rent of \$1,250 was payable monthly. At the outset of the tenancy the Landlord collected \$500.00 as a security deposit and \$200.00 as a pet deposit. The Parties mutually conducted both a

move in and move out inspection and condition reports were completed. The Tenant provided its forwarding address to the Landlord on July 21, 2015.

On March 20, 2015 a fire started in the garage/work shop.

The Landlord states that the Tenant caused the fire. The Landlord states that they have no evidence to support this claim other than that of a letter from the Landlord's insurance company. The Landlord provided a copy of this letter dated April 10, 2015 (the "Letter"). The Landlord argues that the Letter proves that the Tenant caused the fire and that even if the Tenant caused the fire only by accident the Tenant is still responsible for the damage. The Landlord states that as the Tenant did not have insurance the Landlord obtained coverage for the damages through its own insurance. The Landlord states that the insurance deductible was \$1,000.00 and claims this amount from the Tenant.

The Letter indicates that the fire department determined the following: The fire started on the surface of a counter. A light was found on the counter. The light had previously been attached to the pegboard on the wall. The light was plugged into a power bar that had been turned on. The Letter does not indicate where the fire department found the power bar. The Letter indicates that these circumstances suggest that the fire was caused by the light falling on the counter. The Letter further sets out that the tenant "maybe (sic) responsible for the cause of the fire."

The Tenant states that the fire department said the cause of fire was undetermined. The Tenant states that he was the last person in the garage prior to the fire. The Tenant states that a halogen light was securely installed into the pegboard by the Tenant and was plugged in to a power bar located on the counter. The Tenant states that he turned off the light but left the power bar on when he left the garage. The Tenant states that power bar was always left on. The Tenant states that he believes that the power bar may have malfunctioned causing a fire that subsequently caused the light to fall on the counter. The Tenant claims return of double the security deposit.

Analysis

Section 32(3) of the Act provides that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant. Nothing in the Landlord's evidence contradicts the Tenant's evidence that the cause of the fire was undetermined by the fire department. The Letter offers no additional evidence of causation and the Landlord has no other evidence of causation. The evidence of the power bar being left on is of little consequence in determining the Tenant's act or negligence since this is the point or usual use of a power bar and the Tenant could reasonably leave a power bar on without expecting problems. It is undisputed that the fire started on the counter. There is no evidence to refute the Tenant's evidence that the power bar was also on the counter at the time of the fire. There is no evidence to refute the Tenant's evidence that the light was secure or that the light was turned off. The fire being started by the power bar is plausible. As a result I find that the Landlord has not shown on a balance of probabilities that the Tenant caused the fire either by act or neglect and I dismiss the Landlord's application.

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. As the Landlord made its application to claim against the security deposit within 15 days receipt of the Tenant's forwarding address I find that the Tenant is not entitled to return of double the security deposit. The Tenant remains entitled to return of the original amount of the combined security and pet deposit of **\$700.00** plus zero interest. The Tenant is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$750.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$750.00**. 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: January 27, 2016

Residential Tenancy Branch

