



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant only.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for damage to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 45, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant submitted that the tenancy began in October 2014 for a monthly rent of \$475.00 due on the last day of each month with a security deposit of \$247.00 paid. The tenant submitted that the tenancy ended on or before June 2015.

The tenant submits that he provided his forwarding address by Facebook on July 4, 2015. The tenant submits that he provided her with his forwarding address on that date so she could return his security deposit. However, he states instead he received the landlord's paperwork for her claim.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**

4. Steps taken, if any, to mitigate the damage or loss.

As the landlord has submitted a claim for \$665.00 but has failed to attend this hearing to present her claim and her evidence, I dismiss the landlord's claim in its entirety.

In addition, I find that by failing to follow up and attend this hearing the landlord has not pursued her Application to retain the security deposit. I find that this failure to pursue her Application has the same effect as if the landlord had not filed an Application at all to claim the security deposit.

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

As I have found above that the landlord's failure to attend this hearing has the same effect as not filing an Application at all, I find the landlord has failed to comply with her obligations under Section 38(1) and as such the tenant is entitled to return of double the security deposit amount paid pursuant to Section 38(6).

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$494.00** comprised of double the amount of the security deposit.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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 11, 2016

Residential Tenancy Branch

