



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD O FF

Introduction

This hearing dealt with an application by the tenant for a monetary order. The tenant was seeking return of double the security deposit, reimbursement for hydro and gas payments and lost wages. The tenant also requested recovery of the filing fee from the landlord.

At the outset of the hearing and in his evidence package, the landlord brought to my attention that the claims being made by the tenant had already been dealt with in a hearing on March 10, 2015. In the course of that hearing, a settlement had been reached between the parties, the details I will not repeat here. Suffice it to say that the terms of that agreement covered all claims for hydro and gas and also required the tenant to pay to the landlord the sum of \$2400.00 in monthly payments of \$350.00 commencing March 19, 2015.

According to both parties only one of the above payments was made to the landlord because the tenant fell into "major financial issues" from which he has not yet recovered. In any event, the landlord was given a monetary order at the first hearing in the amount of \$2400.00 for use in the event the tenant did not follow through on his commitments under the settlement. According to the landlord the tenant still owes \$1350.00 out of the total amount of that order after deducting the amount of the security deposit (\$700) and the one monthly payment (\$350.00).

The original settlement stated that the security deposit would be "disbursed in accordance with section 38 of the Act". The landlord acknowledged that the security deposit had not been returned to the tenant because the tenant still owed the landlord money as ordered. I note that Section 38(3) of the Act allows a landlord to retain an amount from a security deposit "that the director has previously ordered the tenant to pay to the landlord and at the end of the tenancy remains unpaid."

The tenant advised that he was not clear on the terms of the settlement that had been reached at the last hearing because he never received a copy of the decision. The landlord confirmed that he never received a copy of the original decision either.

In conclusion, I find that the application before me contains claims that have already been resolved and that it must therefore be dismissed.

I dismiss the tenant's request to recover the filing fee from the landlord.

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: February 15, 2016

Residential Tenancy Branch

