



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67; and
2. An Order for the return of double the security deposit - Section 38.

I accept the Tenant’s evidence that the second named Landlord (“Landlord AR”) was served with the application for dispute resolution and notice of hearing by registered mail on October 16, 2015 in accordance with Section 89 of the Act. As only Landlord AR has been served with the application I dismiss the application as against the Landlord MA. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts provided?

Background and Evidence

The tenancy started on November 15, 2013 and ended on October 31, 2014. At the outset of the tenancy the Landlord collected \$2,750.00 as a security deposit. The Tenant provided its forwarding address to the Landlord’s agent by email dated November 18, 2014. The Tenant communicated with the agent throughout the tenancy by email and phone. The Landlord has not returned the security deposit and has not made an application to claim against the security deposit. The Tenant claims \$5,500.00.

During August 2014 the air conditioner stopped working during a hot weather period. The Tenant notified the Landlord a few times about the air conditioner however the Landlord failed to repair it so the Tenant had it repaired at a cost of \$242.55. The Tenant claims reimbursement of this amount and provides a copy of the repair bill.

Analysis

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.

Based on the undisputed evidence of the Tenant I find that the Landlord failed to return the security deposit within 15 days of receipt of the Tenant's forwarding address and as the Landlord did not make an application to claim against the security deposit I find that the Landlord must now pay double the security deposit in the amount of **\$5,500.00**.

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. Based on the undisputed evidence that the air conditioner stopped working I find that the Tenant was without the air conditioner as provided under the tenancy agreement and that by repairing the unit the Tenant acted to mitigate its losses when the Landlord failed to repair the unit. As a result I find that the Tenant has substantiated an entitlement to the costs claimed of **\$242.55** for a total entitlement of **\$5,742.55**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$5,742.55**. 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: May 17, 2016

Residential Tenancy Branch