



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of all or part of the pet damage deposit or security deposit; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The landlord and the tenant attended the hearing, each gave affirmed testimony and the tenant called one witness who gave affirmed testimony. The parties were given the opportunity to question each other and the witness with respect to the testimony and evidence provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?
- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for the cost of storage?

Background and Evidence

The tenant testified that this month-to-month tenancy began on September 6, 2015. Rent in the amount of \$650.00 per month was payable on the 1st day of each month. The landlord also collected a security deposit from the tenant in the amount of \$325.00 which is still held in trust by the landlord and no pet damage deposit was collected.

The tenant further testified that rent was paid for September, and during that month, the tenant was taken to hospital in an ambulance. On September 18, 2016 the landlord went into the rental unit and took the tenant's keys and locked the tenant out of the rental unit. The landlord told the tenant he was no longer welcome and had the tenant's friend move the tenant's belongings into a garage and charged the friend \$80.00.

The tenant sent to the landlord a letter containing the tenant's forwarding address by registered mail on January 4, 2016 and a copy of the Canada Post cash register receipt as well as the

Registered Domestic Customer Receipt have been provided, which contain that date. The tenant also delivered a copy of the letter to the landlord's secretary marked Urgent on October 21, 2015. The landlord has not returned any portion of the security deposit, and the tenant claims double the amount as well as \$80.00 for storage and recovery of the rent paid for September.

The tenant's witness testified that she had called the ambulance for the tenant. After that, the landlord called the witness about the ambulance and told the witness that other tenants were at risk due to parties in the rental unit, and that things were different than he expected. He told the witness that the tenant's belongings had to be removed. The witness rented a U-Haul and the landlord arranged for storage in a garage. The witness and her mother moved the tenant's belongings into the garage and the witness paid the \$80.00 storage fee. Belongings were moved out of that storage space at a later date.

The landlord testified that he posted a letter to the door of the rental unit on September 18, 2015 which gave an immediate notice to terminate the tenancy for violation of smoking, extra persons living in the rental unit, parties and damage.

The landlord was working on the property when emergency vehicles arrived and the police told the landlord that a suicide call had been made. A neighbouring tenant has provided a letter describing her personal fear. When the landlord went to see about getting an Order of Possession, the landlord discovered that the Residential Tenancy Branch was closed on Saturdays. Since there were extreme circumstances for security of other tenants in the building, the landlord told the tenant's witness that storage could be arranged and the landlord also arranged for a motel for the tenant. The tenant stayed at the motel for one night, even though the landlord had paid for 2 nights. However, someone from the motel told the landlord that the tenant went through the window of a neighbouring suite frightening the people in that suite. The motel personnel took the tenant's keys and told the tenant not to come back.

The landlord agrees that the security deposit was \$325.00 and the tenancy began on September 6, 2015, however this was an emergency situation. Storage was arranged to ensure the tenant's belongings were secure and that he had easy access. The rental unit was not re-rented until April 15, 2016.

Analysis

Firstly, with respect to the security deposit, the *Residential Tenancy Act* states that a landlord must return a security deposit or pet damage deposit to a tenant in full within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an application for dispute resolution claiming against it within that 15 day period. If the landlord fails to do either, the landlord must repay the tenant double the amount. In this case, I am satisfied that the landlord received the tenant's forwarding address in writing twice; once on October 21, 2015 and again by registered mail on January 4,

2016. The landlord has not returned any portion and has not made a claim against it, and therefore, I find that the tenant has established a claim for double the amount, or \$650.00.

With respect to the tenant's claim for return of the rent paid for the month of September, 2015, I have reviewed the evidentiary material, and it is clear that the landlord had no right to enter the rental unit or require the tenant to move out. The *Act* specifies in what situations and in what manner a landlord may end a tenancy, and locking the tenant out of the rental unit without giving any notice or receiving any order from the Residential Tenancy Branch is not permitted. The landlord caused the tenant to move out during the first month of the tenancy without colour of right, and therefore, I find that the tenant has established a claim for return of the rent money, or \$650.00.

I am also satisfied that the tenant is owed \$80.00 for a storage unit that the tenant would not have had to rent if the landlord had complied with the *Act*.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$50.00 filing fee.

In summary, I find that the tenant has established a claim for \$650.00 for double return of the security deposit; \$650.00 for return of September's rent; \$80.00 for recovery of storage costs; and \$50.00 for recovery of the filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,430.00.

This order is final and binding and may be enforced.

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: June 14, 2016

Residential Tenancy Branch