Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LANTERN PROPERTIES
and [tenant name suppessed to protect privacy]
DECISION

Dispute Codes   MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of the security deposit, for compensation and for the filing fee. The tenant stated she served the landlord with a notice of hearing package, by registered mail on November 17, 2015 and provided a tracking number. Despite having served the landlord with the notice of hearing package the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

The parties had attended a hearing on November 30, 2015 to address the landlord's application to retain the security deposit. The tenant made this application on November 13, 2016 but there was insufficient time to join it with the landlord's application. In a decision dated December 14, 2015, the Arbitrator dealt with the landlord's application to retain the deposit. Since this matter has already been dealt with, this portion of the tenant's application is moot and accordingly dismissed.

The tenant stated that she made this application on November 13, 2015 and had provided evidence to support her claim. The tenant's evidence was not before me. However upon looking up the evidence tab on the landlord's application, after this hearing ended, I found that the tenant's evidence had been placed on the landlord's file in error. I accept that the tenant had served the landlord with her evidence and therefore, I will use the tenant's evidence in the making of this decision.

Issue to be Decided

Is the tenant entitled to recover the loss she suffered when her freezer broke down? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on October 01, 2014 and ended on July 01, 2015. The monthly rent was $835.00 due on the first of each month. The tenant was the only occupant of the rental unit.

The tenant testified that on June 01, 2015, her freezer broke down and she informed the landlord of the problem that same day. The landlord actioned the tenant's complaint two days later and the freezer was replaced on June 10, 2015.

The tenant stated that in October 2014, she purchased a rack of lamb for $250.00 and filed a copy of a receipt dated October 03, 2014. The tenant is claiming reimbursement in the amount of $250.00. The tenant is also claiming $10.50 for the cost of registered mail and $50.00 for the recovery of the filing fee.

Analysis

Based on the undisputed testimony of the tenant and the documents filed into evidence by the tenant, I find that the tenant lost the use of the freezer for approximately 9 days in June 2015. The tenant is claiming $250.00 for the cost of lamb that was purchased eight months prior to the breakdown of the freezer. Based on the date of purchase, I find on a balance of probabilities, it is more likely than not that a portion of the lamb was consumed during the eight months it was stored in the freezer. I find it appropriate to award the tenant $100.00 towards the loss she suffered.

The legislation does not permit me to award any litigation related costs other than the filing fee. Accordingly the tenant's claim for mailing costs is dismissed. The tenant has proven a portion of her claim and therefore I award her the filing fee of $50.00

Overall the tenant has established a claim of $150.00. I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act,* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of $150.00.

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 09, 2016

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Residential Tenancy Branch