



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, MNSD, O, OLC, RP, MNDC

Introduction

This is an application brought by the tenant(s) requesting a monetary order in the amount of \$787.00.

The applicant(s) testified that the respondent was served with notice of the hearing by personal service on August 18, 2016; however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

The parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicants have established monetary claim against the respondent, and if so in what amount.

Background and Evidence

The applicants testified that on July 25, 2016 at they made an agreement with the landlord to rent this rental unit for August 1, 2016 and although, at the time they made the agreement, there was a substantial amount of work remaining to be done on the unit, the landlord assured them that all work would be done before August 1, 2016.

The applicants further testified that they made the following payments to the landlord:

Partial security deposit payment July 25	\$100.00
August 2016 rent payment paid July 29	\$550.00
Remainder of security deposit paid July 29	\$137.50
Total	\$787.50

The applicants further testified that they have provided bank statements that show the above payments made by e-transfer to the landlord's account.

The applicants further testified that when they arrived at the rental unit on August 1, 2016 they found the rental unit in total disrepair and nowhere near ready to occupy. They estimate that there was probably 2 to 3 months work still required to be done in the rental unit.

The applicants testified that they therefore informed the landlord they would not move into the rental unit, and requested the return of their rent and security deposit payments however the landlord has refused to return any money.

The applicants are therefore requesting an order for the full return of the \$787.50 that they paid to the landlord.

Analysis

Section 32 of the Residential Tenancy Act states:

32 (1) A landlord must **provide** (*my emphasis*) and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

After reviewing the tenants testimony and photo evidence it is my finding that the tenants have shown that the landlord failed to provide the property in the state of repair that would make it suitable for occupation by a tenant.

Further, it is my finding that the applicants have shown that they did pay a total of \$787.50 in rent and security deposit payments to the landlord, and since the landlord has failed to comply with section 32 of the Residential Tenancy Residential Tenancy Act, it is my decision that the landlord must return all those funds to the tenants.

Conclusion

Pursuant to section 67 of the Residential Tenancy Act, I have issued a monetary order in the amount of \$787.50.

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: September 13, 2016

Residential Tenancy Branch