



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

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;
2. An Order for the return of double the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution plus the notice of hearing and the amended application by registered mail in accordance with Section 89 of the Act. The Landlord did not attend the hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord required to pay the Tenant double the security deposit?

Is the Tenant entitled to compensation for an overpayment of utilities?

Is the Tenant entitled to mailing costs?

Is the Tenant entitled to other compensation?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on April 1, 2015 and ended on June 25, 2016. At the outset of the tenancy the Landlord collected \$600.00 as a security deposit. No move-in condition inspection and report was completed. The Tenant gave its forwarding address in writing to the Landlord on May 12, 2016. The Landlord has not returned the security deposit and has not made an application to claim against the security deposit.

The Tenant claims return of double the security deposit.

During the tenancy the Tenant overpaid its share of the utilities from being double charged on occasion and from the inclusion of the Landlord's late payment penalties. The Tenant provided a detailed calculation and copies of the utility bills to show the overpayment. The Tenant claims \$227.27.

The Tenant claims his mailing costs.

The Tenant claims no amount for the loss of use of a fireplace and for harassment to be set off against any claims the Landlord may have for utilities. The Tenant states that he was unsure how much to claim as he does not know whether there are additional utility bills but his intention with the claim was to ensure the end of any further disputes.

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. As the Landlord has neither returned the security deposit nor made any application I find that the Landlord must now pay the Tenant double the security deposit plus zero interest of **\$1,200.00**.

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 Tenant overpaid the agreed upon portion of the utilities and given the supporting calculations and bills I find that the Tenant has substantiated its claim to **\$227.27**.

As nothing in the Act provides that a party may claim any costs associated with the dispute process other than the filing fee, I dismiss the Landlord's claim for mailing costs. As the Tenant has not identified any amount for the remaining losses claimed and as the Landlord may make a future claim I dismiss the remaining losses claimed with leave to reapply.

As the Tenant's application has met with substantial success I find that the Tenant is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,527.27**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,527.27**. 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: January 11, 2017

Residential Tenancy Branch