



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNSD & MNDC

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$96 for damages
- b. An order to keep the security deposit.
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

The Application for Dispute Resolution filed by the landlord failed to properly identify the Personal Representative of two tenants who had passed away. LO testified she the daughter of the two deceased tenants and the executor of their estates. Policy Guideline 43

D. NAMING AN ESTATE OF A PERSON WHO HAS DIED

Where a party to an Application for Dispute Resolution is deceased, the personal representative of the deceased's estate must be named. If the deceased is a respondent to an application, the personal representative must be named and served. If the applicant does not know the name of the deceased's personal representative at the time of filing an Application for Dispute Resolution, the deceased's name can be filled in on the application (e.g. John Doe, deceased). At the hearing, the arbitrator may amend the application to reflect the proper name of the estate.

The personal representative may be the person named as executor in the deceased's will, or the person who has been approved by the court to administer the estate by way of an estate grant.

The proper manner of naming the estate is as follows: John Smith, Personal Representative of the Estate of Mary Jones, Deceased.

I ordered that the Application for Dispute Resolution be amended to properly identify LO as the personal representative of the two tenants.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both

parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the respondent by mailing, by registered mail to where the personal representative resides. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on September 1, 2007. The tenants paid a security deposit of \$500 on August 1, 2007. The tenancy ended on November 30, 2016. The rent at the time the tenancy ended was \$1100 per month payable in advance on the first day of each month.

The landlord claims \$96 testifying that it took her 2 hours to clean the rental unit after the tenant vacated. She produced photos in support of this claim. The company policy on cleaning is to charge \$40 per hour plus 20% for cleaning supplies.

The personal representative disputes this claim based on the following:

- The landlord failed to do any renovation work while her parents lived in the rental unit. They will be renovating the rental unit and this will result in a mess.
- The rental unit was old and subject to a sewage back up on several occasions.
- The landlord failed to return the security deposit and the tenants are entitled to a doubling of the security deposit.

Landlord's Application – Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for

reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

After carefully considering all of the evidence I determined the landlord is entitled to half of what is claim based on the following:

- The photos indicate the oven in the stove was not sufficiently cleaned. I accept the testimony of the landlord that the photos were taken at the end of the tenancy.
- I determined the amount claimed by the landlord is unreasonable and not supported by the evidence.
- I do not accept the tenant's submission that the tenants are entitled to the doubling of the security deposit as the landlord filed the claim within 15 days of the end to the tenancy.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$48 plus the \$50 for the filing fee (reduced to reflect the limited success of the landlord) for a total of \$98

Security Deposit

I determined the security deposit plus interest as calculated by the Residential Tenancy Act Regulations totals the sum of \$510.69. I ordered that the landlord shall retain the sum of \$98 from the security deposit. I further ordered that the landlord return the balance of the security deposit plus interest in the sum of \$412.69 to the respondent.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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 24, 2017

Residential Tenancy Branch