



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenants 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.

The Landlord did not attend the hearing. I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution and notice of hearing (the “Materials”) on April 7, 2017 by registered mail in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlord is deemed to have received the Materials.

The Tenants were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Are the Tenants entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on March 17, 2017 and ended on September 15, 2017. At the outset of the tenancy the Landlord collected \$600.00 as a security deposit. The Tenants provided their forwarding address on the move-out condition inspection report dated September 15, 2017. The Landlord returned the security deposit on October 6, 2016 and has made no claim against the security deposit.

The Tenants state that during the tenancy the washing machine failed to operate and the Landlord was immediately informed. The Tenant states that the Landlord failed to make any repairs to the washing machine and as a result the Tenants was without the use of the washing machine from August 31 to September 15, 2016. The Tenants took their laundry out to be cleaned at a laundromat The Tenants claim \$75.00 as compensation.

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. Based on the Tenant's undisputed evidence of the end of the tenancy and provision of the forwarding address I find that the Landlord has until September 30, 2016 to return the security deposit to the Tenants. Based on the Tenants' undisputed evidence of receipt of the security deposit on October 6, 2017 that the Landlord failed to return the security deposit within the time allowed. As a result I find that the Landlord is required to pay the Tenants double the security deposit plus zero interest of **\$1,200.00**. Deducting the **\$600.00** already returned leaves **\$600.00** owed to the Tenants.

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. In a claim for damage or loss, the party claiming costs for the damage or loss must prove, inter alia, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed and that costs for the damage or loss have been incurred or established. Based on the undisputed evidence that the tenancy included a washing machine and given the Tenant's evidence that despite informing the Landlord of the loss they were without a working washing machine for a period of 6 weeks. Given this loss I find that the Tenants are entitled to compensation. Given the Tenant's evidence that they took their laundry to a laundromat I find that the Tenants took reasonable steps to mitigate their losses. I also find the amount claimed to be a reasonable amount for the loss of the washing machine and I find that the Tenants are therefore entitled to **\$75.00**.

As the Tenant's application has been successful I find that the Tenants are also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$775.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$775.00**. 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: September 13, 2017

Residential Tenancy Branch