



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38; and
- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67.

Only the tenant appeared at the hearing. The tenant provided affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The tenant testified and supplied documentary evidence that he served the landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on May 8, 2017. The tenant had provided tracking information from Canada Post indicating the mail had been signed for on May 9, 2017. I find the landlord has been duly served in accordance with the Act. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue to be Decided

Is the tenant entitled to a monetary award for the return of his security deposit?
Is the tenant entitled to a monetary award for compensation for loss or damage under the Act, regulation or tenancy agreement?

Background, Evidence

The tenant's undisputed testimony is as follows. The tenancy began on July 1, 2015 and was to be for a fixed term of one year and scheduled to end on June 30, 2016 however the tenancy ended on April 30, 2016. The tenant was obligated to pay \$7500.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$3750.00 security deposit. The tenant testified that the landlord required the full year's rent in advance to which the tenant provided a cheque and paid \$90,000.00. The tenant testified that shortly after moving in the landlord advised him that he was going to sell the unit as he was going through a divorce. The tenant testified that the landlords' realtor was showing the unit numerous times for several months and at very unusual hours. The tenant testified that he explained to the landlord that it was becoming extremely difficult to accommodate the numerous showings.

The tenant testified that the landlord offered several options to resolve the matter; one of which was to end the tenancy two months early and return the tenants rent paid for those two months and the security deposit; the tenant agreed to that option. The tenant testified that the landlord paid him \$5000.00 by cheque on May 15, 2016 to cover the security deposit and a portion of the rent. The tenant testified that the landlord provided a second cheque for \$5000.00; however the cheque "bounced". The tenant testified that he was making all efforts to resolve the matter and was even willing to take a reduced amount as long as the landlord made regular payments, however, that did not occur. The tenant is seeking \$15000.00 for two months of rent plus \$3750.00 security deposit minus the \$5000.00 already paid for and seeks a monetary order of \$13750.00

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the tenant, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my finding are set out below.

The tenant submitted extensive documentary evidence to support his claim. I find that the tenant received his security deposit within 15 days of the tenancy ending and a portion of the rent that he had pre-paid. Based on the undisputed testimony of the tenant, the witnesses' testimony, the documentary evidence before me, and in the absence of any disputing evidence from the landlord, I find that the tenant is entitled to the amount as claimed of the remaining pre-paid rent of \$13750.00.

Conclusion

The tenant has established a claim for \$13750.00. I grant the tenant an order under section 67 for the balance due of \$13750.00. 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: October 03, 2017

Residential Tenancy Branch