



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit, for compensation for loss or damage under the Act, regulations and tenancy agreement, for compensation for repairs and to recover the filing fee for this application.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on August 19, 2017. The Tenant said the hearing package was returned to her as unclaimed by the Landlord. Based on the evidence of the Tenant, I find that the Landlord was deemed to be served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absences.

The Tenant said the Landlord did not accept the registered mail package with the Application and Notice of Hearing (the “hearing package”) because the post office returned it to the sender (the Tenant). The Tenant provided a tracking number and post office receipt and she said the address for the Landlord was correct.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?
2. Is the Tenant entitled to compensation for repairs and if so how much?
3. Is the Tenant entitled to compensation for loss or damage and if so how much?

Background and Evidence

This tenancy started on August 1, 2015 as a one year fixed term tenancy and then continued on a month to month basis. The tenancy ended April 30, 2017. Rent was \$2,200.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$1,100.00 on August 1, 2015.

The Tenant said that she moved out of the rental unit on April 30, 2017 and gave the Landlord a forwarding address in writing on May 14, 2017. The Tenant said she completed a move in and move out condition inspection with out the Landlord as the Landlord lives out of country and the Landlord did not provide a representative to do the reports. The Tenant continued to say that she cleaned the unit before leaving and she asked the Landlord for her security deposit back.

Further the Tenant said the Landlord was not attentive to doing repairs or maintenance so the Tenant had to repair the stove for a gas leak in October, 2015 at a cost of \$114.45 which the Tenant paid. The Tenant submitted a paid receipt for the repair in the evidence package. As well the Tenant said she had the furnace repaired at her cost in the amount of \$394.50 in November, 2015. The Tenant said the Landlord agreed to reimburse her for both repairs but the Landlord never did. The Tenant said she would like to recover these expenses from the Landlord through her application.

In addition the Tenant said the Landlord was told that the dishwasher was broken in February, 2016 and the Landlord promised to fixed or replace it, but the Landlord did not do anything with the dishwasher. The Tenant said the dishwasher was part of the tenancy agreement and she has a large family so not having a dishwasher was a large inconvenience to the Tenant. The Tenant is requesting \$100.00 for each month for 15 months for the loss of use of the dishwasher in the total amount of \$1,500.00.

Further the Tenant said the Landlord was not in attendance at the move out condition inspection but the Landlord deducted \$475.00 from the Tenant's security deposit without the Tenant agreement for repairs and cleaning. The Tenant said she received a cheque from the Landlord for \$625.00 for the return of the security deposit. The Tenant said she did not agree to the Landlord retaining any part of the security deposit and the Tenant said she is requesting the full deposit be returned.

The Tenant also requested to recover the filing fee of \$100.00 for this application.

Analysis

Section 38 (1) says that except as provided in subsection (3) or (4) (a),
within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding
address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) **must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.**

I accept the Tenant's testimony that she gave the Landlord a forwarding address in writing on May 14, 2017. The Landlord did not repay the full security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution by May 29, 2017. Consequently I find for the Tenant and grant an order for double the security deposit of \$1,100.00 in the amount of $\$1,100.00 \times 2 = \$2,200.00$ less the \$625.00 the Landlord has returned to the Tenant in the total amount of \$1,775.00.

Further I accept the Tenant paid for repairs to the stove and furnace. These repairs are the Landlord's responsibility therefore I award the Tenant the repair costs of \$114.45 for the stove and \$394.50 for the furnace repairs.

With regard to the broken dishwasher the Tenant advised the Landlord the dishwasher was broken in February, 2016 and on a number of other occasions after that and the Landlord did not repair or replace the dishwasher. Consequently I find the Tenant has established grounds for compensation of \$100.00 per month for 15 month for the loss of use of the dishwasher. I award the Tenant \$1,500.00.

As the Tenant was successful in this matter I order the Tenant to recover the filing fee of \$100.00 from the Landlord. Pursuant to section 67 a monetary order for \$3,883.95 has been issued to the Tenant. This Monetary order represents the following:

| | |
|---------------------------|--------------------|
| Stove repairs | \$ 114,45 |
| Furnace repairs | \$ 394.50 |
| Loss of use of dishwasher | \$ 1,500.00 |
| Recover filing fee | \$ 100.00 |
| Double security deposit | <u>\$ 1,775.00</u> |
| Total | <u>\$3,883.95</u> |

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38, 67 and 72 of the Act, I grant a Monetary Order for \$3,883.95 to the Tenant. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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: November 28, 2017

Residential Tenancy Branch