



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF; MNSD, FF

Introduction

This hearing was scheduled to deal with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to recover the filing fee for their application, pursuant to section 72.

This hearing was also scheduled to deal with the tenant's cross-application pursuant to the *Act* for:

- authorization to obtain a return of double the value of the tenant's security deposit, pursuant to section 38;
- authorization to recover the filing fee for her application, pursuant to section 72.

The two landlords did not attend this hearing, which lasted approximately 37 minutes. The landlord's agent ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that the landlords were out of the country and he had authority to speak on their behalf as an agent at this hearing.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlords' written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that both landlords were duly served with the tenant's application and the tenant was duly served with the landlords' written evidence package.

I had not received a copy of the landlord's written evidence package prior to the hearing, but the tenant confirmed receipt of it. When I asked the landlord about service of these documents to the Residential Tenancy Branch ("RTB"), he claimed that he did not have the information in front of him during the hearing. As the parties settled these

matters between themselves, I do not find it necessary to record findings of service regarding the landlord's written evidence package to the RTB.

Preliminary Issue – Landlords' Application

During the hearing, I asked the landlord whether the landlords had filed an application against the tenant at the RTB. The landlord claimed that they did not but he was anticipating a future application by the landlords if the parties were unable to settle at this hearing. He confirmed that he wanted to settle any potential damages claims that the landlords might have against the tenant for this tenancy, at this hearing.

Despite the landlord's testimony and after the hearing, I received a copy of the landlords' application for dispute resolution, for the file number indicated on the cover page of this decision. The file had not been provided to me prior to the hearing, as a result of an administrative RTB error; however, I note that no written evidence was included in the landlords' file. The landlords' application indicated that the landlords were seeking \$1,000.00 for compensation for painting and cleaning damages against the tenant. These claims are indicated on the first page of this decision.

During the hearing, the landlord confirmed that he wanted to settle any potential claims that the landlords might have against the tenant for any matters related to this tenancy. He confirmed that he did not want either party to come back to the RTB to file any future claims against the other party and that he wanted a final resolution at this hearing.

Therefore, despite not having the landlords' application in front of me during the hearing and the landlord being unaware that one had been filed, both parties agreed to settle any potential claims that the landlords might have against the tenant related to this tenancy. The tenant had a copy of the landlords' written evidence package in front of her during the hearing, relating to any claims made by the landlords against her.

Accordingly, I record the below settlement as per the parties' agreement at the hearing and I have included the landlords' file number on the cover page of this decision, as the landlords' application and any other potential future claims have now been settled by both parties.

Settlement Terms

Pursuant to section 63 of the Act, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and an order. During the

hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute and arising out of this tenancy.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time and arising out of this tenancy:

1. Both parties agreed that the landlords will retain \$150.00 from the tenant's security deposit;
2. Both parties agreed that the landlords will return the remaining \$450.00 from the tenant's security deposit to the tenant by way of e-transfer by December 22, 2017;
 - a. During the hearing, both parties confirmed the tenant's email address where the e-transfer is to be sent;
3. The tenant agreed to bear her own cost for the \$100.00 filing fee paid for her application;
4. The tenant agreed that this settlement agreement constitutes a final and binding resolution of her application at this hearing and any issues arising out of this tenancy;
5. The landlord agreed that this settlement agreement constitutes a final and binding resolution of any claims that the landlords have against the tenant relating to any issues arising out of this tenancy;
6. Both parties agreed that they will not initiate any future claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise the full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute and arising out of this tenancy.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As I was not required to make a decision on the merits of the landlords' application since both parties settled, I dismiss the landlords' application to recover the \$100.00 filing fee without leave to reapply. The landlords must bear the cost of their filing fee.

Conclusion

I order the landlords to retain \$150.00 from the tenant's security deposit.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the tenant's favour in the amount of \$450.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord(s) do not abide by condition #2 of the above agreement. The landlord(s) must be served with a copy of this Order as soon as possible after the landlord(s) do not abide by condition #2 of the above agreement. Should the landlord(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

Both parties must bear their own costs for the \$100.00 filing fees paid for their applications.

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: December 18, 2017

Residential Tenancy Branch