



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

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

- a monetary order for unpaid rent or utilities, for damage to the rental unit, and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The "first hearing" on September 7, 2017 lasted approximately 68 minutes and the "second hearing" on December 19, 2017 lasted approximately 77 minutes. The landlord, the landlord's agent and the tenant attended both hearings. At both hearings, all parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At both hearings, the landlord's agent confirmed that he was the husband of the landlord named in this application and that he had authority to speak on behalf of the landlord as an agent.

Preliminary Issue - Adjournment of First Hearing and Evidence

The first hearing on September 7, 2017 was adjourned for a continuation because after 68 minutes of testimony, the parties had not finished providing evidence.

By way of my interim decision, dated September 8, 2017, I adjourned the landlord's application to be continued at the second hearing on December 19, 2017. At the second hearing, both parties confirmed receipt of my interim decision.

At the first hearing, I notified both parties that they could serve further evidence after the first hearing and prior to the second hearing. This information was also contained in my interim decision. At the second hearing, both parties confirmed that they had not served any further evidence after the first hearing and prior to the second hearing.

At the first hearing, the tenant confirmed receipt of the landlord's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's application.

At the second hearing, both parties chose to settle the landlord's application, rather than continuing with testimony and having me make a decision. Accordingly, I recorded the parties' settlement terms below.

Preliminary Issue – Inappropriate Behaviour by the Tenant during both Hearings

Rule 6.10 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Throughout both hearings, the tenant continuously interrupted me and the landlord's agent, often arguing and debating issues rather than answering questions. The tenant also made rude remarks to me personally, laughed throughout the hearing when I asked her questions or made statements, and delayed the settlement process at the second hearing. The tenant spoke for most of the time during both hearings.

I caution the tenant not to engage in the same rude, inappropriate and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated and she may be excluded from future hearings. In that event, a decision will be made in the absence of the tenant.

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

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

1. Both parties agreed that the landlord will retain the tenant's entire security deposit of \$425.00;
2. The tenant agreed to pay the landlord \$5,100.00;
3. The landlord agreed to bear the cost of the \$100.00 filing fee paid for this application;
4. The landlord agreed that this settlement agreement constitutes a final and binding resolution of her application and any issues arising out of this tenancy;
5. 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 a full and final settlement. Both parties affirmed that they understood and agreed to the above terms. Both parties affirmed that they understood and agreed to these terms as legal, final, binding and enforceable, settling all aspects of this dispute and arising out of this tenancy.

During the second hearing, I confirmed with the tenant that she was not under duress when making this agreement. The tenant stated that as a former nurse, she understood the meaning of the word "duress." The tenant said that she felt pressured at one point to settle, to which I responded that she should not settle the matter if she felt pressured or coerced to do so. The tenant then repeatedly affirmed under oath that she wanted to settle the landlord's application rather than having me make a decision, and she did not want to continue to provide testimony or evidence. Accordingly, I enforced the settlement between the parties.

Conclusion

To give effect to the settlement reached between the parties and as advised to them during the hearing, I order the landlord to retain the tenant's entire security deposit of \$425.00.

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 landlord's favour in the amount of \$5,100.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant fails to pay the landlord \$5,100.00 as per condition #2 of the above agreement. The tenant must be served with a copy of this Order. Should the tenant 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.

The landlord must bear the cost of the \$100.00 filing fee paid for this application.

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 26, 2017

Residential Tenancy Branch