



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, MND, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on August 8, 2017 for:

1. An Order for the return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on August 11, 2017 for:

1. An Order to retain the security deposit - Section 38;
2. A Monetary Order for compensation - Section 67;
3. A Monetary order for damage to the unit - Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Tenant entitled to return of the security deposit and recovery of the filing fee?

Relevant Background and Evidence

The tenancy started on April 1, 2017 and ended on June 30, 2017. At the outset of the tenancy the Landlord collected \$467.50 as a security deposit. The Parties mutually conducted a move-in and move-out inspection with condition reports for each inspection copied to the Tenant.

The Landlord states that the Tenant introduced bedbugs into the unit. The Landlord states that prior to the Tenant's occupation of the unit there had been a 5 year tenancy with no problems. The Landlord states that an hour after the Parties conducted the move-out inspection the Landlord discovered both live and dead bedbugs. The Landlord states that the Tenant moved out of the unit after a short period and perhaps the Tenant knew of the bedbugs. The Landlord states that, in the past, bedbugs were introduced into a unit by guests or outside used objects or furniture. The Landlord questioned the Tenant about whether the Tenant's furniture was new when it was brought into the unit. The Landlord claims the costs of the bedbug treatment.

The Tenant states that it did not introduce bedbugs into the unit and has no idea how the bedbugs came into the unit. The Tenant states that its furniture was brought from its prior residence and that nothing in the furniture would have introduced bugs. The Tenant claims return of the security deposit.

Analysis

Section 32(3) of the Act provides that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant. Like any other pest that may enter a unit, the Landlord must prove on a balance of probabilities that the Tenant by act or negligence introduced the pest or caused the pest to be present. The Landlord has provided no evidence that the Tenant caused the unit to be infested by bedbugs either by act or negligence. The Landlord has only made the assertion that the pests were not there and then they were. This is not sufficient evidence to meet the burden of

proof in the face of the Tenant's plausible evidence that no pests were introduced by the Tenant. As a result I find that the Landlord has not substantiated its claim for costs to treat the unit and I dismiss the claim. As the Landlord has not been successful with its claim I find that the Landlord is not entitled to recovery of the filing fee and in effect the Landlord's application is dismissed. I order the Landlord to return the security deposit plus zero interest of **\$467.50** to the Tenant.

As the Tenant has been successful with its claim I find that the Tenant is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$567.50** due from the Landlord.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$567.50**. 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: February 06, 2018

Residential Tenancy Branch