



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD

Introduction

This hearing was scheduled to deal with a landlord's application for a Monetary Order for damage to the rental unit; damage or loss under the Act, regulations or tenancy agreement; and, authorization to retain the security deposit and/or pet damage deposit. At the start of the hearing an agent appeared at the hearing but there was no appearance on part of the tenants.

Since the tenants were not in attendance I explored service of hearing documents and evidence upon them. The landlord's agent stated the landlord had sent the Application for Dispute Resolution to the tenants via registered mail and that the registered mail receipts were uploaded to the Residential Tenancy Branch system. I informed the landlord's agent that registered mail receipts were not uploaded to this file, or if an attempt was made it was no successful.

Approximately 11 minutes into the hearing, the tenant referred to by initials AB joined the teleconference call. The tenant stated that he had not received the landlord's Application for Dispute Resolution by registered mail and that he was notified of a dispute filed by the landlord by an email generated by the Residential Tenancy Branch. The tenant stated he had to call the Branch to determine the telephone number to call for the hearing.

I asked the landlord's agent to provide the registered mail tracking numbers for service of the landlord's Application for Dispute Resolution to the tenants. The landlord's agent indicated she did not have the receipts in front of her but that if given time she could retrieve them. The landlord's agent was given time to do this and she was able to retrieve and provide two tracking numbers after a few minutes. Upon a search of the tracking numbers provided to me, I was able to determine that the registered mail packages were delivered to an address in Edmonton. The tenant confirmed that he

gave the landlord a forwarding address located in Edmonton and that he is away from home much of the time, working in a mine, and has a roommate that may have received the packages.

The landlord's agent also testified that evidence was sent to the tenants at the same forwarding address, via registered mail, 14 days before the hearing. The registered mail receipts for service of the evidence were not uploaded either; however, the tenant acknowledged receipt of an evidence package approximately one day ago. The tenant stated he had not had an opportunity to review and prepare a response to the evidence. The landlord's evidence was served late since documents are to be received by the respondent no less than 14 clear days before a hearing and putting the evidence in the mail 14 days prior to the hearing would not allow for mailing time. The landlord's evidence was also uploaded to the Residential Tenancy Branch less than 14 clear days before the hearing.

I proceeded to ask the tenant whether he was aware of the specific monetary claims against him. The tenant indicated he had an understanding that the landlord was making a claim about floor damage based on discussions at the time of move-out but was uncertain as to the amount sought by the landlord.

I also noted that the amount of the landlord's claim was unclear based on the Application for Dispute Resolution that was filed, especially when compared to the evidence. I turned to the landlord's agent for clarity as to the amount sought by the landlord. The landlord's agent stated that the landlord would be willing to settle the dispute by way of retaining the security deposit and pet damage deposit which is less than the damages incurred.

Although the tenant was not agreeable to all to the claims for damage, the tenant was agreeable to settling the landlord's claims by way of the security deposit and pet damage deposit.

In light of the above, I have recorded a settlement agreement reached between the parties by way of this decision.

Issue(s) to be Decided

What are the terms of settlement?

Background and Evidence

The parties reached the following agreement in full and final satisfaction of any all claims related to this tenancy:

1. The landlord shall retain the tenants' security deposit and pet damage deposit.
2. Both parties are now precluded from making any other claim against the other party with respect to this tenancy.

Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement agreement during the hearing and to record the settlement agreement in the form of a decision or order.

I have accepted and recorded the settlement agreement reached by the parties during this hearing and I make the term(s) an Order to be binding upon both parties.

In recognition of the settlement agreement, the landlord is hereby authorized to retain the tenants' security deposit and pet damage deposit in full satisfaction of her claims against the tenants.

Conclusion

The parties reached a full and final settlement agreement during the hearing that I have recorded in this decision. In recognition of the settlement agreement, the landlord is hereby authorized to retain the tenants' security deposit and pet damage deposit.

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: April 26, 2018

Residential Tenancy Branch