



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord acknowledged receipt of evidence submitted by the tenant. The landlord did not submit any documentation. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issues to Decide

Is the tenant entitled to a monetary award for the return of all or a portion of her security deposit?

Is the tenant entitled to a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement?

Background and Evidence

The tenant gave the following testimony. The tenant testified that she rented a mobile home and paid \$500.00 a month for rent. The tenant testified that at the outset of the tenancy she paid a \$250.00 security deposit that has not been returned. The tenant testified that she wasn't sure when she moved in but was certain that the landlord

locked her out of the mobile home on February 26, 2017. The tenant testified that she is asking for the return of the rent paid for February 2017 since the landlord ended the tenancy two days early. The tenant testified that the landlord forced her to pay \$930.00 to access her own belongings and she now seeks to recover that cost. The tenant testified that she is also seeking the recovery of the \$22.50 she paid for registered mail costs for this hearing.

The tenant is applying for the following:

1.	Return of security deposit	\$250.00
2.	Return of February 2017 rent	500.00
3.	Cost to access belongings	930.00
4.	Registered mail	22.50
5.		
6.		
	Total	\$1702.50

The landlords gave the following testimony. SS testified that the tenant has not provided her forwarding address in writing at any time prior to this hearing. SS testified that he is considering filing an application against the tenant for the excessive damage and cleaning she left behind. VG testified that the tenant was not locked out on February 26, 2017. VG testified that the tenant abandoned the unit without any further communication. VG testified that the locks were not changed. VG testified that the tenant's daughter paid the pad fee of \$310.00 for March, April, May 2017 as the tenant had left her belongings behind and had not made any attempts to pick them up prior to the landlords obtaining an order of possession from the Branch on May 15, 2017. The landlords feel that the tenant is not entitled to any of her claim.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below.

Security deposit - \$250.00

The tenant seeks the return of her security deposit from the landlord, totaling \$250.00. The tenancy ended on May 15, 2017. The tenant did not give the landlord written permission to retain any amount from her security deposit. The landlord did not

return the full security deposit to the tenant or make an application for dispute resolution to claim against this deposit, within 15 days of the end of this tenancy.

However, section 38 requires a landlord to return the deposit after the later of the end of the tenancy AND the provision of the forwarding address in writing. The tenant has not provided their forwarding address in writing to the landlord. Accordingly, I find that it was not served in accordance with section 88.

The landlord has now been notified of the tenant's forwarding address by way of the tenant's Application for this hearing. Earlier in this decision, I found that the landlord was deemed served with the tenant's Application in accordance with the *Act*. Accordingly, the tenant's Application for the return of the security deposit is dismissed with leave to reapply.

The landlord is put on notice that he is deemed to have received the tenant's written forwarding address five (5) days after the date of this decision (by June 19, 2018). The landlord then has 15 days after deemed receipt to either return the tenant's security deposit in full or to file an application for dispute resolution. If the landlord does not complete the above actions as outlined above, the tenant may apply for the return of double the amount of her security deposit in accordance with section 38 of the *Act*.

Return of February 2017 Rent - \$500.00

The tenant did not provide sufficient evidence to show that she was locked out of the home and that the landlord had changed the locks. I accept the testimony of the landlord that the tenant abandoned the unit and was left to deal with the issue with the tenant's daughter. Based on the above, and on the balance of probabilities, the tenant has not provided sufficient evidence to prove this claim, accordingly; I dismiss this portion of her application.

Cost to access personal belongings \$930.00

The tenant first testified that this was the cost for "hookups and such", but later changed her testimony when her advocate advised of her what it was for. I found the tenants testimony on this point to be disjointed, vague and unreliable. The landlord provided testimony that the tenants' daughter and he came to an agreement that she pay the pad fees for the three months that the unit was abandoned and up until the time the landlord was granted an order of possession. I found the testimony of the landlord to be

reasonable, logical and consistent with the pad costs and the chronology of the events. Based on the above, and on the balance of probabilities, the tenant has not provided sufficient evidence to prove this claim, accordingly; I dismiss this portion of her application.

Registered Mail Costs – \$22.50

Registered mail costs are not hearing recoverable costs as outlined in section 72 of the Act, accordingly, I dismiss this portion of the tenants' application.

Conclusion

The tenant is granted leave to reapply for the recovery of the security deposit. Leave to reapply is not an extension of applicable timelines. The remainder of the tenants' application is dismissed in its entirety.

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: June 14, 2018

Residential Tenancy Branch