



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, MNDCT

Introduction

The Application for Dispute Resolution filed by the Tenant seeks a monetary order in the sum of \$545.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was served on landlord by mailing, by registered mail to where the landlord resides on April 27, 2018.

Issue to be Decided

The issue to be decided is whether the tenant is entitled to a monetary order and if so how much?

Background and Evidence:

The parties entered into an oral tenancy agreement that provided that the tenancy would start on February 13, 2018. The Tenant paid rent of \$287.50 for February. The tenant paid a security deposit of \$250. The parties agreed the rent for March was \$575 per month payable in advance on the first day of each month.

The tenant made 3 rental payments totalling \$450 for March. On March 9, 2018 the parties got into a dispute. The tenant was intoxicated and the police were called and took him away. When the Tenant returned on March 10, 2018 the landlord had removed the tenant's belongings from his room

The police were called a second time. The tenant subsequently agreed to vacate after the landlord paid him \$130. The evidence indicates the tenant intended to file a claim against the landlord for the security deposit and the proportionate part of the rent paid.

The landlord testified it was a messy situation and it was not longer feasible for the tenant to remain in the rental unit. I determined the tenancy ended on March 10, 2018. The landlord testified he was not able to re-rent the rental unit for the balance of March 2018 and submits that he is entitled to claim for the loss of rent. . .

The landlord acknowledged receiving the tenant's forwarding address in writing some time in March. Neither party provided my with a copy of the letter that contained the forwarding address.

I determined the parties have not agreed in writing that the landlord can keep the security deposit. The landlord does not have a monetary order against the tenant and the landlord has not filed a claim against the tenant to keep the security deposit.

Law

The Residential Tenancy Act provides that a landlord must return the security deposit plus interest to the tenants within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing unless the parties have agreed in writing that the landlord can retain the security deposit, the landlord already has a monetary order against the tenants or the landlord files an Application for Dispute Resolution within that 15 day period. It further provides that if the landlord fails to do this the tenant is entitled to an order for double the security deposit.

Analysis

The tenants paid a security deposit of \$250. I determined the tenancy ended on March 10, 2018. I further determined the tenant provided the landlord with his forwarding address in writing prior to the end of March 2018 as the landlord acknowledged receipt of it.. The parties have not agreed in writing that the landlord can retain the security deposit. The landlord does not have a monetary order against the tenants and the landlord failed to file an Application for Dispute Resolution within the 15 days from the later of the end of tenancy or the date the landlord receives the tenants' forwarding address in writing. The landlord returned \$130 of the security deposit on March 10, 2018. As a result I determined the tenants have established a claim against the

landlord for double the security deposit held by the landlord or the sum of \$240 ($\$120 \times 2 = \240).

The tenant made three payments of rent totalling \$450 for month of March. The landlord's actions in removing the tenant's belongings from the room amounted to a fundamental breach of the tenancy agreement. I determined the landlord is entitled to a credit for the 10 days the tenant stayed in the rental unit. However, I determined the tenant is entitled to the return of the balance of the rent as the landlord's actions in removing the tenant's belongings brought the tenancy to an end. I determined the tenant is entitled to the sum of \$305 ($\450 divided by 31 days multiplied by 21 days = \$305).

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$545.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on both parties.

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: September 10, 2018

Residential Tenancy Branch