



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT MNSD (TENANT); FFL MNDCL-S (LANDLORD)**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for the landlord to return the security deposit pursuant to section 38;
- An order requiring the landlord to reimburse the tenant for the filing fee.

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord attended the hearing and had the opportunity to call witnesses and present affirmed testimony and written evidence.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional ten minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord provided affirmed testimony that the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on March 12, 2019 and deemed received by the tenant under section 90 of the *Act* five days later, that is, on March 17, 2019.

The landlord provided the Canada Post Tracking Number in support of service to which I refer on the cover page. Pursuant to sections 89 and 90, I find the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution on March 17, 2019.

Issue(s) to be Decided

Is the tenant entitled to the following:

- An order for the landlord to return the security deposit pursuant to section 38;
- An order requiring the landlord to reimburse the tenant for the filing fee.

Is the landlord entitled to the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

The landlord provided uncontradicted testimony that the tenancy began on January 17, 2019. The tenant vacated on February 18, 2019. A copy of the written tenancy agreement was submitted as evidence.

Rent was \$1,500.00 monthly payable on the first of the month. At the beginning of the tenancy, the tenant provided a security deposit on \$750.00 which the landlord holds. The landlord acknowledged receipt of the forwarding address sent to the landlord by the tenant on February 25, 2019, thereby effecting service five days later under section 90, that is, on March 2, 2019.

The landlord requested compensation for a utility account with respect to the tenancy in the amount of \$103.43 and reimbursement of the filing fee. The landlord requested

authorization to apply the security deposit to the monetary award. The landlord clarified the landlord's claim as follows:

ITEM	AMOUNT
Reimbursement natural gas invoice	\$103.43
Reimbursement filing fee	\$100.00
(Security deposit)	(\$750.00)
Balance of security deposit	(\$546.57)

The landlord submitted a comprehensive calculation of the utility invoice as well as copies of the relevant invoices.

The landlord proposed to return the balance of the security deposit of **\$546.57** to the tenant after payment of the monetary award.

The landlord brought this application on March 11, 2019 within 15 days of receiving the tenant's forwarding address.

Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy agreement or the *Act*, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The purpose of compensation is to put the person who incurred the damage or loss in the same position as if the damage or loss had not occurred. The person claiming compensation must establish **all** the following four points:

1. The existence of the damage or loss;
2. The damage or loss resulted directly from a violation – by the other party – of the *Act*, regulations, or tenancy agreement;

3. The actual monetary amount or value of the damage or loss; and
4. Everything reasonable was done to reduce or minimize (mitigate) the amount of the loss or damage as required under section 7(2) of the *Act*.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award.

I find that the landlord has met the burden of proof on a balance of probabilities that the landlord is entitled to a monetary award for reimbursement of the utility account for the tenancy in the amount of \$103.43. I have reached this conclusion after reviewing the landlord's documents including a 1-page calculation supported by copies of the invoices.

As the landlord is successful in his application, I grant the landlord reimbursement of the filing fee in the amount of \$100.00 for a total monetary award of \$203.43.

Further to section 72, I grant the landlord authorization to apply the security deposit to the monetary award.

I direct the landlord to return the balance of the security deposit of **\$546.57** to the tenant by registered mail at the forwarding address provided by the tenant within 14 days of the date of this decision.

A summary of my award follows:

ITEM	AMOUNT
Reimbursement natural gas invoice	\$103.43
Reimbursement filing fee	\$100.00
(Security deposit)	(\$750.00)
Balance of Security deposit	(\$546.57)

As the tenant did not attend the hearing or submit evidence, the tenant's application is dismissed without leave to reapply.

Conclusion

I grant the landlord a monetary award in the amount of \$203.43 and authorization to apply the monetary award to the security deposit of \$750.00. The balance of the security deposit of **\$546.57** is to be returned by the landlord to the tenant as directed in the decision.

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 26, 2019

Residential Tenancy Branch