



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, RPP, FFT

Introduction

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

- authorization to obtain a return of the tenant's security deposit, pursuant to section 38;
- an order requiring the landlord to return the tenant's personal property, pursuant to section 65; and
- authorization to recover the filing fee for his application, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 31 minutes.

The landlord confirmed receipt of the tenant's application for dispute resolution and notice of hearing. He said that he did not receive any evidence from the tenant. The tenant said that he did not serve his evidence to the landlord. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application and notice of hearing. I informed both parties that I could not consider the tenant's evidence because it was not served to the landlord. However, I was not required to consider the tenant's evidence because both parties decided to voluntarily settle this application at the hearing.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to correct the spelling of the landlord's surname. The landlord consented to this amendment during the hearing.

Settlement Terms

Pursuant to section 63 of the Act, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute and arising out of this tenancy, except for the tenant's application to recover the \$100.00 filing fee.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time and arising out of this tenancy, except for the tenant's application to recover the \$100.00 filing fee:

1. The landlord agreed to check at the rental unit to determine whether the tenant's mic stand is still there;
2. The landlord agreed to return the tenant's dishes, kitchenware and mic stand, if he finds the mic stand, which the tenant agreed to pick up at 3:00 p.m. on December 20, 2019 at the landlord's business parking lot;
3. The landlord agreed to return the tenant's entire security deposit of \$325.00 to the tenant by way of a cheque to be picked up by the tenant at 3:00 p.m. on December 20, 2019 at the landlord's business parking lot;
4. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his application at this hearing and any issues arising out of this tenancy, except for the tenant's application to recover the \$100.00 filing fee;
5. Both parties agreed that they will not initiate any future claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise the full and final settlement of all aspects of this dispute and arising out of this tenancy, except for the tenant's application to recover the \$100.00 filing fee. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute and arising out of this tenancy, except for the tenant's application to recover the \$100.00 filing fee.

Both parties were unable to settle the tenant's application to recover the \$100.00 filing fee and asked that I make a decision about it. A filing fee is a discretionary award issued by an Arbitrator usually when a party is successful on the merits of the party's claim after a full hearing. Since both parties agreed to voluntarily settle this application and I was not required to make a decision based on the merits of the application, I decline to award the \$100.00 filing fee to the tenant. Accordingly, this portion of the tenant's application is dismissed without leave to reapply.

Conclusion

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the tenant's favour in the amount of \$325.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord fails to pay the tenant \$325.00 as per condition #3 of the above agreement. The landlord must be served with a copy of this Order. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

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: December 19, 2019

Residential Tenancy Branch