



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes MNSD, MNRT, 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;
- a monetary order for the cost of emergency repairs, pursuant to section 67;
- an order requiring the landlord to return the tenant's personal property, pursuant to section 65; and
- authorization to recover the filing fee for this 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 26 minutes.

Preliminary Issue - Previous Hearings and Service of Documents

This hearing originally occurred on September 28, 2020 ("original hearing") with only the tenant, not the landlord present. A decision, dated September 28, 2020 ("original decision") was issued by a different Arbitrator. The original decision granted the tenant the return of personal property and a \$150.00 monetary order ("original monetary order") including the \$100.00 application filing fee, against the landlord.

The landlord applied for a review of the original decision, alleging that he was unable to attend the original hearing. A new review hearing was granted by a different Arbitrator, pursuant to a review consideration decision, dated October 15, 2020 ("review decision"). As per the review decision, the landlord was required to serve the tenant with a copy of

the review decision and the notice of review hearing. The tenant was also required to serve the landlord with a copy of the original application and evidence.

The tenant confirmed receipt of the above review documents from the landlord. Accordingly, I find that the tenant was served with all of the required review documents, as per section 89 of the *Act*.

The tenant claimed that he did not serve his original application and evidence to the landlord. The landlord claimed that he did not receive the above documents from the tenant. However, both parties affirmed under oath, that they wanted to proceed with this hearing and resolve this matter. I proceeded with the hearing on the basis of both parties' consent.

Preliminary Issue – Confirming Original Decision and Orders

Section 82(3) of the *Act* states:

Following the review, the director may confirm, vary or set aside the original decision or order.

During the hearing, the tenant confirmed that this matter was resolved prior to the hearing, so he did not want to pursue any further relief at this hearing. Both parties agreed that the landlord paid the tenant \$150.00 and returned the tenant's personal property, in accordance with the original decision and original monetary order, both dated September 28, 2020.

However, the landlord claimed that he wanted his money back and so he filed a review of the tenant's application after he paid the tenant and returned the tenant's personal property. He said that he would file a future application to get his money back.

I notified both parties that since the matter was resolved by both parties prior to the hearing, as both parties abided by the original decision and original monetary order, I was not required to conduct a review hearing on the merits of the tenant's application or make a decision. I informed them that since the tenant did not want to pursue any relief at this hearing, as the tenant is the applicant, there were no claims for me to decide. Although the landlord may regret his decision to abide by the original decision and original monetary order, I find that the matter is resolved.

Accordingly, I confirm the original decision and original monetary order, both dated September 28, 2020.

During the hearing, I cautioned the landlord to review section 79(7) of the *Act*, which states that a party may only apply once for a review consideration:

(7) A party to a dispute resolution proceeding may make an application under this section only once in respect of the proceedings.

Conclusion

The original decision and original monetary order, both dated September 28, 2020, are confirmed.

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 07, 2020

Residential Tenancy Branch