



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL FFL / MNSDS-DR, FFT

Introduction

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (the “**Act**”). The landlord’s for:

- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement in the amount of \$2,860 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

And the tenant’s application for:

- monetary order for \$2,200 representing two times the amount of the security deposit, pursuant to sections 38 and 62 of the Act; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant attended the hearing and was assisted by his mother (“**MM**”). The landlord was represented at the hearing by its owner (“**CC**”). All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

This hearing was reconvened from a hearing on November 27, 2020. Following that hearing, I issued an interim decision setting out the reasons for the adjournment. I permitted the tenant to file an application of his own seeking \$4,400, representing the return of twice the amount of the security deposit (\$2,200) plus the return of January 2020 rent (\$2,200), and for it to be heard at the same time as the landlord’s application.

The parties confirmed that each had received the other’s application materials and evidence in accordance with the orders made in the interim decision.

Preliminary Issue – Amendment of Tenant’s Application

The tenant testified that, due to issues with the RTB online application system, he was unable to apply for the return of January rent. He asked that I amend his claim to allow him to add this claim, as well as add a claim for \$2,000 for time spent preparing for this application.

Rule of Procedure 4.2 states:

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

In this case, I ordered that the tenant apply for compensation for January 2020 rent. The landlord acknowledged that he understood this issue would be addressed at the reconvened hearing. As such, this portion of the amendment sought could have been (and was) reasonably anticipated by the landlord, and I order that the tenant's application be amended to include it.

In the interim decision, I did not order the tenant to make a claim for time spent preparing for this application. There was nothing in the evidence submitted by the tenant in support of his application which gave any indication that he was seeking \$2,000 in compensation for time spent preparing for the application. As such, this portion of the tenant's sought amendment could not have reasonably been anticipated by the landlord. I decline to grant this portion of the amendment sought.

Issues to be Decided

Is the landlord entitled to:

- 1) a monetary order for \$2,860; and
- 2) recover the filing fee?

Is the tenant entitled to:

- 1) a monetary order of \$4,400; and
- 2) recover the filing fee?

Settlement

Pursuant to section 63 of the Act, an 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 or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute:

1. The landlord shall pay the tenant \$700 on or before March 2, 2021.
2. The landlord may make this payment via etransfer to the tenant's email address listed on the cover of this decision.

These particulars comprise the full and final settlement of all aspects of this dispute. The parties gave verbal affirmation at the hearing that they understood and agreed to the above terms as legal, final, and binding, which settle all aspects of this dispute between them. The parties specifically acknowledge that this settlement agreement does not have the effect of resolving any other claims that either may have against the other relating to the tenancy.

Conclusion

As the parties have reached a settlement, I make no factual findings about the merits of this application.

To give effect to the settlement reached between the parties, and as discussed at the hearing, I issue the attached monetary order ordering the landlord to pay the tenant \$700 by March 2, 2021.

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: February 16, 2021

Residential Tenancy Branch