



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, FFL, MNETC, MNDCT, MNSD

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Landlord applied on October 5, 2021 for:

1. A Monetary Order for compensation - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant applied on January 13, 2022 for:

1. A Monetary Order for compensation - Section 67; and
2. An Order for the return of the security deposit - Section 38.

The Landlord did not attend the hearing to present their claim. The Tenant appeared and was ready to proceed. In the absence of the Landlord, I dismiss the Landlord’s claim without leave to reapply. I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by registered mail on January 25, 2022 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlord is deemed to have received the Hearing Package on January 30, 2022. The Tenant was

given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the compensation claimed?

Is the Tenant entitled to return of the security deposit?

Background and Evidence

The tenancy under written agreement started on May 12, 2021 and ended on June 30, 2021. At the outset of the tenancy the Landlord collected \$700.00 as a security deposit. Rent of \$1,400.00 was payable on the first day of each month. The Parties conducted a mutual walkthrough of the unit at move-in however no move-in inspection report was completed and copied to the Tenant. The Landlord did not make any offers to the Tenant for a move-out inspection. The Tenant provided their forwarding address to the Landlord in an email dated September 18, 2021.

The Tenant states that the Landlord verbally informed the Tenant that the tenancy had to end because of re-zoning. The Tenant confirms that the Landlord did not give the Tenant a notice to end tenancy. The Tenant moved out of the unit and claims \$4,500.00 for moving costs, rental costs to live with a friend and includes \$500.00 for aggravated damages. The Tenant states that the Landlord had continuously threatened the Tenant to keep the Tenant's belongings if the Tenant did not move out of the unit.

The Tenant states that the Landlord changed the locks after the Tenant moved out of the unit and that some of their belongings were left in the unit that the Tenant could not retrieve. The Tenant states that the Landlord has refused to return the items. The Tenant claims \$600.00 for these items. It is noted that the Tenant provided their evidence to support their claims on the Landlord's file. The Tenant states that they had purchased a new bookshelf and special lightbulbs for the tenancy. The Tenant states that they paid \$300.00 and \$120.00 for the special lightbulbs. The Tenant states that

the other items were all used and that the remaining amount being claimed was a “ballpark” estimate of loss.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant’s forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Given the Tenant’s undisputed evidence that the Landlord was provided with the forwarding address on September 18, 2021 and noting that the Landlord subsequently made their application I find on a balance of probabilities that the Landlord received the forwarding address. As the Landlord’s application has been dismissed, I find that the Landlord has not made an effective application to retain the security deposit. The Tenant is therefore entitled to return of double the security deposit plus zero interest in the amount of **\$1,400.00.**

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. While the Tenant claims compensation for having to move out of the unit, there is no evidence that the Landlord did anything other than tell the Tenant that they had to move out of the unit. The Landlord did not change the locks until after the Tenant moved out of the unit. The Tenant was not under any obligation to move out of the unit, and for these reasons I find that the Tenant has not substantiated that the Landlord breached the Act causing the Tenant to move out of the unit. Although the Tenant claims aggravated damages, there is no supporting evidence showing that the Landlord acted in an egregious manner. The Tenant’s supporting evidence does not include any threats made by the Landlord. The Tenant’s supporting evidence indicates that the Landlord offered the Tenant as much as two month’s compensation for moving

out of the unit. For these reasons I find that the Tenant has not substantiated an entitlement to the compensation claimed and I dismiss this claim.

Based on the Tenant's undisputed evidence that the Landlord changed the locks to the unit at the end of the tenancy and failed to return the items or secure the Tenant's belongings for collection I find that the Tenant is entitled to compensation for their belongings. Given the undisputed evidence of loss and value in relation to the bookshelf and special light bulbs, I find that the Tenant has substantiated a loss of **\$420.00**. As the Tenant did not provide any estimates or particulars of any value for the remaining belongings, I find that the Tenant did not substantiate the remaining compensation claimed. The Tenant's total entitlement is **\$1,820.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,820.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 5, 2022

Residential Tenancy Branch