



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT MNSD FFT

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The tenant applied for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement. Specifically, the tenant is seeking compensation in the amount of \$900 for the loss of use of the rental unit between July 15 to 31, 2021. The tenant is also seeking the recovery of the filing fee. Finally, the tenant is seeking the return of their security deposit, which the tenant is aware was already addressed in my Previous Decision dated June 22, 2022 (Previous Decision). The file number of the Previous Decision has been included on the cover page of this Decision for ease of reference.

The tenant attended the teleconference hearing. The landlords did not attend the hearing, which lasted a total of 54 minutes. During the hearing the tenant presented their evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the landlords did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated January 25, 2022 (Notice of Hearing), application and documentary evidence were considered. The tenant provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the landlords by more than one method. The first was by registered mail on January 26, 2022 to both landlords at their service address listed on the tenancy agreement. According to the Canada Post online registered mail website, the landlords signed for the package on January 28, 2022. The tracking number has been included on the cover page of this decision for ease of reference and identified as "1".

The tenant testified that additional evidence was also served on August 16, 2022 and was signed for by the landlords on August 23, 2022, which is supported by the Canada

Post online registered mail website. The tracking number has been included on the cover page of this decision for ease of reference and identified as “2”.

In addition, the tenant presented documentary evidence, an email, which supports that landlord JG was also served by email at the email address confirmed by landlord JG at the previous hearings held on February 15, 2022 and June 2, 2022, both of which were before me. Based on the above and without any evidence to prove to the contrary, I accept that the landlords were sufficiently served in accordance with the Act and as claimed by the tenant above.

Preliminary and Procedural Matters

The tenant was advised at the start of the hearing and confirmed their understanding that I would not be considering the security deposit as it was already address in my Previous Decision. In addition, as I found both landlords were also sufficiently served in accordance with the Act, I consider this matter to be undisputed by the landlords, who did not attend the hearing.

Issues to be Decided

- Is the tenant entitled to any monetary compensation under the Act, and if so, in what amount?
- If yes, is the tenant also entitled to the recover of their filing fee under the Act?

Background and Evidence

A copy of the written tenancy agreement in evidence. The tenancy began on September 15, 2020 and ended on July 22, 2021 when the tenant indicates they returned the rental unit keys. Monthly rent during the tenancy was \$1,825 per month and was due on the first day of each month.

The tenant's claim is for \$900 from the \$1,825 rent paid for July 2021 due to a water leak in the rental unit. Both the tenant and the landlord, the latter via email communication submitted for my consideration, confirmed that the rental unit was “uninhabitable” due to the water leak and what the landlord described was mould in the rental unit. The tenant stated that they were unable to live in the rental unit between July 7 to July 31, 2021 but is only seeking the return of \$900 as compensation for 15 days of loss of use of the rental unit. The tenant clarified that their last day of using the rental unit was July 7, 2021 due to mould in the rental unit.

The tenant testified that on July 4, 2021 they advised landlord AMG of the water leak and that neither landlord came to inspect the rental unit and instead sent a plumber on July 5, 2021 to repair the water leak coming from the kitchen faucet. The tenant indicated that the landlord then served a 2 Month Notice to End Tenancy for Landlord's Use of Property dated July 15, 2021, with an effective vacancy date of October 1, 2021. The tenant testified that on July 16, 2021, the tenant sent an email to landlord, JG indicating that they were giving 10 days notice to end the tenancy early, which is provided for under section 50(1) of the Act.

The tenant confirmed that full rent for July 2021 was paid to the landlords in the amount of \$1,825. The tenant also confirmed that they received one month of compensation in the amount of \$1,825 pursuant to section 51(1) of the Act.

The tenant referred to several photos of the water leak damage in the rental unit and a letter from their doctor, YS (doctor) regarding mould in the rental unit. The letter is dated July 9, 2021 and confirmed that the tenant advised their doctor that they have a progressing allergy due to mould in the house and that the allergy will persist and progress in the current housing environment. The doctor also writes "Its become uninhabitable."

Analysis

Based on the undisputed documentary evidence and the unopposed testimony provided during the hearing, and on the balance of probabilities, I find the following.

As I have found the landlords were served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, and as indicated above, I consider this matter to be unopposed by the landlords.

I agree with the tenant that they suffered the loss of use of the rental unit for at least July 15, 2021 to July 31, 2021 due to a water leak that I find was not the fault of the tenant and which is supported by my Previous Decision. Furthermore, I find the tenant has met the burden of proof to support that they should be compensated \$900 for July 2021 as full rent of \$1,825 was paid to the landlords.

Section 67 of the Act authorizes compensation for losses under the Act and based on the undisputed evidence before me, I grant the tenant **\$900** as claimed as I find the tenant's claim has merit and is fully successful.

In addition, as the application has merit, I grant the tenant **\$100** for the return of their filing fee pursuant to section 72 of the Act.

Given the above, I find the tenant has established a total monetary claim of **\$1,000** as indicated above.

Conclusion

The tenant's application is fully successful.

The tenant has established a total monetary claim of \$1,000 as indicated above. The tenant has been granted a monetary order under section 67 of the Act in the amount of \$1,000. This order must be served on the landlords and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The landlords are cautioned that they could be held liable for all costs related to enforcement of the monetary order.

This Decision will be emailed to both parties.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 6, 2022

Residential Tenancy Branch