



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution to keep all or part of the security deposit and for compensation for damage to the unit, site or property.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary Order for damages; to retain all or part of the security deposit; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began on May 1, 2009 as a month to month tenancy for monthly rent of \$650.00 with rent due on the 1st of the month. A security deposit of \$325.00 was paid on May 1, 2009. The tenancy ended on July 31, 2009.

The landlord has submitted into evidence a letter of explanation to the tenant responding to the tenant's request for return of the security deposit; a bill from an elevator service provider for repairs; and confirmation of service of documents.

The landlord's agent testified that when the tenant was moving out two of the tenant's helpers were stuck in the elevator. The agent completed the usual method of restarting the elevator but without success. The tenant called 911 and the fire department arrived and members were able to get the elevator to a safe level and get the helpers out.

The landlord asserts the damage was caused by the tenant and her helpers pushing out the doors of the elevator from their track. The tenant did not submit any evidence contesting this claim.

Analysis

In the absence of any contrary evidence I accept the landlord's version of the cause of the damage to the elevator and as such I find the landlord entitled compensation in the amount of \$731.34

Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and in the amount of **\$781.34** comprised of \$731.34 for damages and the \$50.00 fee paid by the Landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$325.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$456.34**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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 *Residential Tenancy Act*.

Dated: December 09, 2009.

Dispute Resolution Officer