



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

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”) for Orders as follows:

The Tenant applied on March 22, 2012 for:

1. A Monetary Order for compensation or loss - Section 67;
2. An Order for the return of double the security deposit – Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on March 27, 2012 for:

1. A Monetary Order for compensation or loss - Section 67;
2. An Order to retain all or part of the security deposit – Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

On February 18, 2012, the Tenants applied to rent the unit with an advertised occupancy date of March 1, 2012. This date was later changed on mutual agreement for a move in date of March 15, 2012 however the Tenant claims compensation for the costs of storage and a moving truck in relation to the later move-in date.

On February 21, 2012, the Tenants paid the Landlord \$775.00 for a security deposit and \$775.00 for the half months rent for March 15, 2012 occupancy. At this point, the Landlord, as indicated by the Landlord's text evidence, still required the completion of a work reference and a tenancy agreement was not yet signed. The move-in inspection was scheduled for March 13, 2012. On March 1, 2012, during a discussion in relation to the Landlord calling a different work reference than that given by the Tenant and the Landlord not having received the full reference as required, the Tenant expressed frustration and asked for return of the security deposit and rent cheque. The Landlord returned both amounts by cheque but placed a stop payment on one of the cheques when the Tenant filed the application for dispute resolution. The Landlord was living in the unit at the time and continued to live in the unit until mid April 2012 and the unit was rented for May 1, 2012.

The Landlord states that as a result of the Tenant's actions, the Landlord was unable to rent the unit out as soon as expected and as a result lost a work opportunity. The Landlord claims a loss of one month's rental income and retention of the security deposit.

The Tenant claims return of double the security deposit, in addition to the losses in relation to the change of occupancy date.

Analysis

Whether or not a valid contract exists and is therefore enforceable, where no contract has been made in writing, may be determined by the intentions and actions of the parties. While it is clear that there was an offer by the Tenant to rent the unit and an acceptance by the Landlord, I find that each Parties offer and acceptance was conditional on the work reference to be obtained. Given that the Landlord had not obtained the work reference details as required by the Landlord and from the person as indicated by the Tenant, I find that the Tenant withdrew the offer and no contract was therefore entered into. Given this finding, I find that the Tenant is entitled only to return

of the one cheque in the amount of \$775.00. Further, I find that the Tenant is not entitled to return of double the security deposit or losses in relation to a different move-in date. Given that the Tenant has met with limited success on this application, I decline to make an order in relation to recovery of the filing fee. Given that no tenancy agreement was entered into, I dismiss the Landlord's application.

Conclusion

The Landlord's application is dismissed.

I grant the Tenant an order under Section 67 of the Act for **\$775.00**. 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 *Residential Tenancy Act*.

Dated: May 2, 2012.

Residential Tenancy Branch