



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, MNSD, FF*

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for compensation in the amount of \$3,975.59 which includes the return of money spent to carry out repairs in the unit and for the return of double the security deposit. The tenant also applied for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issues to be decided

Is the tenant entitled to the return of what he spent to repair the rental unit? Is the tenant entitled to the return of double the security deposit and to the recovery of the filing fee?

Background and Evidence

The parties agreed to the following: The tenancy started on October 15, 2014. The monthly rent was \$3,900.00 due on the first of each month and did not include utilities. Prior to moving in, the tenant paid a security deposit of \$1,950.00. The parties entered into a mutual end to tenancy agreement and the tenant moved out on March 30, 2018. The landlord confirmed that she had received the tenant's forwarding address on May 03, 2018.

The tenant stated that prior to moving out he carried out some repairs to the rental unit and wanted to be reimbursed for the same. The landlord stated that the damage was caused by the tenant and that he agreed to repair the damage as a condition of the

mutual end to tenancy agreement. The landlord stated that the tenant had not completed what he was required to do and had not paid his utility bill and therefore the landlord did not return the security deposit to the tenant.

The landlord informed the tenant by text message that she would return the deposit after he paid the utility bill and replaced the blinds that were damaged. The tenant stated that when he moved out he informed the landlord that she could retain \$460.20 from his deposit towards the cost of utilities.

The tenant is claiming the cost of repairs to the chandelier and the front door and the cost of purchasing heating units. The total claim of the tenant for these items is \$995.99. In addition the tenant is claiming \$159.25 as interest on the security deposit.

Analysis

Based on the testimony of both parties, I find that the tenant repaired the damage to the chandelier and the front door. On a balance of probabilities I find that it is more likely than not that the tenant was responsible for this damage during the four year old tenancy. Accordingly I dismiss the tenant's claim to be reimbursed for the cost of repairs.

The tenant may have purchased heating units but was at liberty to take them with him at the end of tenancy. The interest payable on the security deposit is currently set at 0% and therefore the tenant is not entitled to interest on the security deposit.

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

In this case, the landlord agreed that she received the tenant's forwarding address on or about May 03, 2018 but did not return the deposit because the tenant had not paid for utilities and had not replaced the blinds. The landlord did not file an application to retain all or a portion of the deposit. By June 25, 2018, the tenant had not received his deposit and therefore made this application.

Based on the above, I find that the landlord failed to repay the deposit or make an application for dispute resolution within 15 days of the receipt of the forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The total security deposit paid was \$1,950.00. The tenant agreed that he authorized the landlord to retain \$460.20 towards utilities. Accordingly, at the end of tenancy the landlord was holding \$ 1,489.80 which she was required to return to the tenant or make application to keep all or a portion of this amount.

Since the landlord did not return \$1,489.80 to the tenant or make application to retain it, the landlord must return double this amount to the tenant. Accordingly, the tenant is entitled to the return of 2,979.60. Since the tenant has proven his case, he is also entitled to the recovery of the filing fee of \$100.00.

Overall the tenant has established a claim of \$3,079.60 which consists of \$2,979.60 for the return of the security deposit plus \$100.00 for the recovery of the filing fee.

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for \$3,079.60. This order may be filed in the Small Claims Court and enforced as an order of that Court.

In regards to the landlord's claims relating to loss that she may have suffered, I am not able to hear or consider the landlord's claim during these proceedings as this hearing was convened solely to deal with the tenant's application. The landlord is at liberty to file her own application for damages against the tenant.

Conclusion

I grant the tenant a monetary order in the amount of **\$3,079.60**.

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: November 01, 2018

Residential Tenancy Branch