

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNSD FF

Introduction

This matter dealt with an application by the landlord to retain all or part of the security deposit for damages to the rental unit. The landlord also seeks to recover the filing fee for the cost of this application.

Both the landlord and the tenant were represented at the hearing, and were afforded the opportunity to present evidence. I also advised both parties that I would also consider their written submissions which had been received prior to the hearing, in reaching my decision.

Issue(s) to be Decided

Is the landlord entitled to retain any or all of the security deposit, and if so, in what amount?

Background and Evidence

The agreed to facts are as follows:

- the tenancy commenced on March 1, 2007
- a security deposit of \$1387.50 was paid at the start of the tenancy
- the tenancy ended on October 1, 2008

- a written move-out inspection was conducted with the landlord and tenant both present on October 1, 2008
- the landlord has claimed damages in the amount of \$950.00 for items noted during the move-out inspection
- the tenant has agreed to be liable for the \$950.00
- the landlord has claimed a further \$430.00 for items not noted on the move-out inspection and discovered after the inspection had been completed
- the tenant denies liability for the further damages and the liability for the \$430.00

Analysis

In reviewing the written submissions and the oral evidence of the tenant and the landlord, I find that the burden of proof in regards to the damages lies with the landlord. I do not find that the landlord has met that burden of proof in that they have not established that there were further damages. They have not presented any evidence such as photographs or invoices to show that there was damage which required repair. The tenant can not be expected to be able to be held liable for damages allegedly discovered after a written move-out inspection has been completed. This has limited the tenant ability to prepare a full defence when they have not seen the alleged damage.

I find that the landlord is entitled recover the \$950.00 agreed to be the tenant, and a further \$50.00 for the filing fee. I dismiss the balance of the landlords claim.

Conclusion

I order that the landlord may retain the amount of \$1000.00 from the security deposit plus interest valued at \$ 1403.29 and that the balance of \$403.29 must be returned to the tenant within 15 days of receipt of this decision.

Dated: December 2, 2008