



Dispute Resolution Services

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

DECISION

Dispute Codes: MNSD and FF

Introduction

This application was brought by the tenants seeking return of their security deposit in double on the claim that the landlord failed to return it within 15 days of the end of the tenancy. The tenants also seek to recover the filing fee for this proceeding from the landlord.

Issue(s) to be Decided

This matter requires a decision on whether the tenants are entitled to a Monetary Order for return of the security deposit in double.

Background and Evidence

This tenancy began March 1, 2008 and ended on October 31, 2008. Rent was \$950 per month and the landlord holds a security deposit of \$475 paid on February 29, 2008.

During the hearing, the tenant gave evidence that she and her husband had given notice to end the tenancy as they were expecting a child and needed larger accommodation.

She stated that on moving out, she had provided the landlord with her forwarding address and had participated in the move out inspection.

The landlord pointed out that the tenant had signed the move-out condition inspection report which noted a number of deficiencies under the heading “Damage to rental unit or residential property for which the tenant is responsible.” Items listed were: carpet steam cleaning, damage to walls in hall and bedroom, damage to carpet in bedroom, and clean bathroom shower door.

The landlord said he had discussed these items with the tenant and believed it was her intention to grant consent that he charge the security deposit against these costs.

By letter of November 3, 2008, the landlord provided the tenants with a copy of the Condition Inspection Report detailing damages of \$995.86. The letter acknowledged that much of the damage had been caused by the movers – damage to the walls and carpet – and asked the tenants that if they were successful in an action against the movers, to compensate the landlords costs above the security deposit.

The tenant replied on November 9, 2008 directing the landlord to the moving company to recover on the damages and demanding return of the security deposit.

On receiving that letter, the landlord immediately replied expressing surprise at the report on the grounds of the signed inspection report and stating that they would have applied for dispute resolution on the security deposit if the tenant had given any indication that she did not concur with their claims.

That letter stated that the landlord would “consider the matter to be at an end” if the tenants did not proceed to dispute resolution.

Analysis

While the female tenant contested the amount the landlord charged for various items, I find that they exceeded the amount of the security deposit for which the landlord had offered to settle.

I further find that the tenants erred in directing the landlord to attempt to claim from the moving company. The movers were under contract to the tenants and the landlord had no direct contractual relation with the movers. It was, therefore, up to the tenants to meet their obligation to the landlord and seek to recover from the mover if they so chose.

I find that, being in possession of a condition inspection report signed by the female tenant on move-out, that the landlords had every reason to conclude that they had the consent of the tenants to retain part or all of the security deposit against the damages and that their claims against it were valid.

Conclusion

Therefore, the application is dismissed without leave to reapply. As the application has not succeeded, the tenants will remain responsible for their own filing fee.

January 16, 2009

Dispute Resolution Officer