



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 hearing dealt with an application from the tenants for return of a portion of their security deposit, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

As a result of claiming he was unable to successfully call into the conference call using the passcode, the landlord's agent (building manager) was put into contact with the dispute resolution officer on a separate cell phone. However, the tenants / applicants were unable to hear him. Accordingly, the cell phone contact with the dispute resolution officer was terminated, and the landlord's agent then contacted the landlord by cell and participated in the hearing for a short time by speaker phone.

Issues to be decided

- Whether the tenants are entitled to a monetary order under the Act, including recovery of the filing fee

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on July 1, 2008. Rent in the amount of \$625.00 was payable on the first day of the month. A security deposit of \$312.50 and a pet damage deposit of \$100.00 was collected on July 1, 2008. The tenancy ended on February 28, 2009.

A move-in condition inspection and report were completed at the outset of tenancy. However, while a move-out inspection was undertaken at the end of tenancy, a report was completed and signed only by the landlord's agent, and not by the tenants. During

the move-out inspection there was discussion between the parties about the need for additional cleaning to be completed in the unit, as well as discussion related to the need for repairs to the kitchen faucet. While the tenants are not disputing the landlord's withholding of \$60.00 for cleaning from the combined security / pet damage deposit of \$412.50, the tenants did not provide the landlord with written authorization to make this deduction.

However, the tenants are disputing the landlord's unauthorized withholding of an additional \$226.03 from the security / pet damage deposit for repairs to the kitchen faucet. After withholding a total of \$60.00 for cleaning, and \$226.03 for faucet repairs, the landlord repaid the balance of the security / pet damage deposit in the amount of \$126.47. The tenants seek recovery of \$226.03 in addition to the \$50.00 filing fee.

During the hearing the parties exchanged views on the circumstances surrounding the dispute, as well as the applicable legislation, and undertook to find a resolution.

Analysis

Section 63 of the Act provides that the parties may undertake to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution of the dispute. Specifically, it was agreed as follows:

- that the tenants waive recovery of \$60.00 withheld for cleaning from the security / pet damage deposit, even while it was not authorized in writing;
- that the tenants waive recovery of interest accrued on the security / pet damage deposit;
- that the landlord will mail cheque payment of \$276.03 to "YQ," agent for the tenants, at her mailing address as provided during the hearing;
- that the above cheque includes reimbursement of the unauthorized amount withheld of \$226.03 plus the \$50.00 filing fee;

- that the landlord will deposit the above cheque into the mail by no later than midnight, Friday, August 14, 2009;
- that the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy for both parties.

For the information of the parties, attention is drawn to the following sections of the Act:

Section 23: Condition inspection: start of tenancy or new pet

Section 24: Consequences for tenant and landlord if report requirements not met

Section 35: Condition inspection: end of tenancy

Section 36: Consequences for tenant and landlord if report requirements not met

Section 37: Leaving the rental unit at the end of a tenancy

Section 38: Return of security deposit and pet damage deposit

The full text of the legislation, fact sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Conclusion

Pursuant to the above agreement and section 67 of the Act, I hereby issue a monetary order in favour of the tenants' agent in the amount of **\$276.03**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order of that Court.

DATE: July 27, 2009

Dispute Resolution Officer