

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order to retain a portion of the security deposit in satisfaction of the claim and to recover the filing fee for the Application.

Although duly served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent on November 11, 2009, and deemed under the Act to be received five days later, the Tenants did not appear. I find the Tenants have been duly served.

The Landlord appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

Is the Landlord entitled to retain a portion of the security deposit?

Background and Evidence

Based on the affirmed testimony and evidence provided by the Landlord, I find that the Tenants vacated the rental unit on or about July 29, 2009.

At the time the Tenants were leaving they called the Landlord to do an outgoing condition inspection report. The Tenants were unable to stay for the report, as they were moving out of province and in a hurry. The Landlord performed the outgoing report without the Tenants being present. The Tenants did not provide a forwarding address at the time they vacated.

The Landlord is alleging he incurred costs to clean and remove garbage from the rental unit due to the condition it was left in by the Tenants.

The Landlord is claiming \$154.00 for time, fuel and fees to take the refuse to the dump.

In evidence the Landlord has provided receipts from the dump and a letter from a witness about the refuse left behind at the rental unit.

Analysis

Based on the uncontradicted testimony and evidence, and a balance of probabilities, I find that the Tenants failed to remove refuse from the rental unit when they vacated and

have breached the Act by failing to do this. Furthermore, under section 36 the Tenants have extinguished their right to claim against the security deposit by failing to participate in the outgoing condition inspection report.

I find the breach of the Act by the Tenants has caused losses to the Landlord.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Therefore, I find that the Landlord has established a total monetary claim of **\$204.00** comprised of \$154.00 in time, fuel and dump fees, and the \$50.00 fee paid for this application.

I order that the Landlord may retain \$204.00 from the deposit and interest of **\$580.77** in full satisfaction of the claim and I order the Landlord to return to the Tenants the balance due of **\$376.77**.

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: March 09, 2010.

Dispute Resolution Officer