DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This is an application by the Tenant for a monetary order for return of double the security deposit, for monetary compensation under the Act or Tenancy Agreement and to recover her filing fee for the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Has there been a breach of Section 38 of the Residential Tenancy Act by the Landlords?

Is the Tenant entitled to monetary compensation under the Act or Tenancy Agreement?

Background and Evidence

The Tenant applied for the return of double her security deposit and for the cost of eyeglasses left behind at the rental unit when the Tenant vacated.

During the course of the hearing the Tenant made no submissions or argument regarding the eyeglasses.

The Tenant paid a security deposit of $400.00 in March of 2008. The Tenant vacated the rental unit on December 1, 2009.

The Tenant provided the Landlords with a written notice of the forwarding address to return the security deposit to on November 27, 2009, and did not sign over a portion of the security deposit.

The Landlords did not perform incoming or outgoing condition inspection reports in accordance with the Act. The Landlords did not apply to keep a portion of the security deposit.

On or about December 11, 2009, the Landlords returned $275.13 to the Tenant. The Landlords withheld the other portion of the deposit because they felt the Tenant owed them money for a plumbing bill.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the Landlords have breached section 38 of the Act.

There was no evidence to show that the Tenant had agreed, in writing, that the Landlords could retain any portion of the security deposit, plus interest.

There was also no evidence to show that the Landlord had applied for arbitration, within 15 days of the end of the tenancy or receipt of the forwarding address of the Tenant, to retain a portion of the security deposit, plus interest.

As the Tenant made no submissions or argument regarding the eyeglasses, I dismiss this portion of her claim.

Conclusion

The Landlords have breached section 38 of the Act. The Landlords are in the business of renting and therefore, have a duty to abide by the laws pertaining to Residential Tenancies. I have enclosed a guidebook to the Residential Tenancy Act for the Landlords to refer to.

I find that the Landlords are not entitled to retain any portion of the security deposit or interest.

Having made the above findings, I must Order, pursuant to section 38 and 67 of the Act, that the Landlords pay the Tenant the sum of **$579.89**, calculated as: $800.00 for double the security deposit (2 x $400.00), plus the interest on the original amount held ($5.02), plus the $50.00 fee for filing this Application, ***less*** the $275.13 already paid to the Tenant.

The Tenant is given a formal Order in the above terms and the Landlords must be served with a copy of this Order as soon as possible. Should the Landlords fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: May 28, 2010.

Dispute Resolution Officer