



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order to keep all of the security deposit and pet damage deposit and a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement, and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, sent via registered mail on July 02, 2010. Mail receipt numbers were provided by the landlord in evidence. The tenants were deemed to be served the hearing documents on July 07, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to keep the tenants security and pet damage deposits?



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- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

This tenancy started on July 01, 2009 and ended on March 31, 2010. This was a fixed term tenancy which was due to expire on June 30, 2010. Rent for this unit was \$1,150.00 per month and was due on the first of each month. The tenant paid a security deposit of \$575.00 and a pet deposit of \$575.00 both on June 06, 2009.

The landlord testifies that he received a late night phone call from the tenant on March 31, 2010 where he asked the landlord to come to his rental unit. When the landlord arrived the tenant handed him a written notice to end his tenancy on May 01, 2010. The landlord testifies that he informed the tenants that they had two more months to run on their tenancy but the landlord said he would advertise the unit for rent and if it could be re-rented during May, 2010 the tenants would not be responsible for rent up to the end of the fixed term agreement. The male tenant gave the landlord written authorisation that he could keep his security deposit and pet deposit to the total sum of \$1,150.00 in the event the unit could not be re-rented in May, 2010.

The landlord has provided a copy of the move in and move out condition inspection reports which also show the tenant has agreed that the landlord may keep his security and pet damage deposit. This was signed by the tenant on April 30, 2010

The landlord states he advertised the unit and was only able to re-rent it on June 23, 2010. The landlord seeks an Oder to keep the security deposit and pet deposit in lieu of rent for May, 2010.

The landlord has requested a Monetary Order for money owed or compensation for damage or loss. He states at the end of the tenancy, during the move out condition inspection, he found a leak under the sink and a dent in the washing machine. He seeks to recover the cost to repair these of \$130.00.

Analysis

The tenants did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlords documentary evidence and affirmed testimony before me.

Section 38 (4)(a) of the *Act* allows a landlord to keep all or part of the tenants security deposit and pet damage deposit if at the end of a tenancy, the tenant agrees in writing that the landlord may retain the amount to pay a liability or obligation of the tenant.

I find the tenants did agree in writing on two occasions, once on the notice to end tenancy and once on the move out condition inspection report, that the landlord could retain both the security and pet deposits, therefore, the landlord is entitled to keep these deposits pursuant to s. 38(4)(a) of the *Act*.

With regard to the landlords claim for money owed or compensation for damage or loss, When making a claim for damage or loss a landlord must indicate on his application how much he is claiming for. In this instance the landlord has not indicated how much he is claiming for damages to the washing machine or for a leak under the sink. The landlord has not claimed any unpaid rent for June, 2010 up to the time the unit was re-rented. On his application the landlord has only claimed the amount held for the security



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and pet damage deposits of \$1,150.00. Consequently, the landlords claim for money owed or compensation for damage or loss is dismissed with leave to reapply.

Conclusion

The landlord is entitled to keep the tenants security and pet damage deposits to the sum of \$1,150.00.

As the landlord has been partially successful with his claim I find he is entitled to recover his \$50.00 filing fee from the tenants and a Monetary Order has been issued for **\$50.00**. The Order must be served on the respondents and is enforceable through the Provincial Court 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: November 15, 2010.

Dispute Resolution Officer