



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, MNR, FF

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The tenants application is a request for a monetary order for \$1500.00 and a request that the landlord bear the \$50.00 cost of the filing fee that the tenants paid for their application for dispute resolution.

The Landlord's application is a request for a monetary order for \$500.00 and a request that the tenants bear the \$50.00 cost of the filing fee that the landlords paid for their application for dispute resolution.

Background and Evidence

The tenant testified that:

- This tenancy ended on March 31, 2010, and in a previous hearing it was determined that the landlords received a forwarding address in writing on April 28, 2010.
- To date the landlord has not returned any of the security deposit and since the 15 day time limit has passed they are requesting an order that the landlord pay double the \$750.00 security deposit for a total of \$1500.00.

The landlord testified that:

- In January of 2010 the tenant approached them and informed them that he could not afford the rent and the maximum he could pay was \$600.00.
- The tenant also offered to allow them to keep the full security deposit of \$750.00 towards the remainder of the outstanding January 2010 rent, leaving \$150.00 outstanding.
- They agreed to accept the tenants offer, and also agreed to reduce the rent for the months of February 2010 and March 2010 by half, to \$750.00 per month, to help out the tenants.
- An amendment to the tenancy agreement was written up reducing the rent to \$750.00 per month for the months of February 2010 and March 2010, and agreeing that the tenant would vacate the rental unit on March 31, 2010.
- When the tenants vacated at the end of March 2010 they left the rental unit in need of extensive cleaning. Two cats had been abandoned in the rental unit and the unit was full of cat feces, and abandoned furniture, and garbage.
- As a result they had to have the rental unit cleaned at a cost of \$350.00.
- Originally they were not going to pursue the tenants for the \$150.00 outstanding January 2010 rent, or the cleaning costs, however when the tenant came after

them for return of double the security deposit even after they attempted to help them out financially, they decided to pursue the full outstanding amounts.

The landlords are therefore requesting an order as follows:

January 2010 rent outstanding	\$900.00
Filing fee	\$50.00
Subtotal	\$1300.00
Less security deposit the tenants agreed to apply towards January 2010 rent	-\$750.00
Total	\$550.00

In response to the landlord's testimony the tenant testified that:

- Although it is not mentioned in the amendment to the agreement it was his understanding that the January 2010 rent was also going to be reduced to \$750.00.
- Therefore since he had paid \$600.00, he had agreed to allow the landlords to use \$150.00 of the security deposit towards the January 2010 rent.
- Therefore the landlords should have returned \$600.00 of his security deposit.

In response to the tenant's further testimony the landlord testified that:

- They never agreed to reduce the rent to \$750.00 for January 2010 and that is why the amended agreement states February and March only.
- The tenant did not state that we could keep \$150.00 of the security deposit; he agreed to allow the full security deposit of \$750.00 to be used towards the January 2010 rent.
- If the tenants had agreed to only allow the landlord to keep \$150.00 towards the January 2010 rent, why is he still trying to claim double the full security deposit?

Analysis

It is my decision that I prefer the landlord's testimony over that of the tenant's as I find it far more plausible.

The tenant claims that he thought the rent had been reduced to \$750.00 for the months of January 2010, February 2010, and March 2010; however the amended agreement clearly states that rent was reduced for the months of February 2010, and March 2010 only.

Therefore the tenants were still liable for the full rent for the month of January 2010, and since the tenants only paid \$600.00 of the January 2010 rent I find it likely that the tenant did agree to allow the landlord to keep the full security deposit towards the remainder of a January 2010 rent.

Therefore since it's my finding that the tenants allowed the landlord to keep the full security deposit towards January 2010 rent, the tenant does not have a claim for return of the security deposit let alone double the security deposit.

Further since the rent was \$1500.00 for the month of January 2010, and the tenant has only paid \$600.00, plus the security deposit of \$750.00, for a total of \$1350.00, the tenant still owes \$150.00 for the month of January.

I therefore allow the landlords claim for the outstanding January 2010 rent, and for the filing fee.

I will not allow the landlords claim for cleaning, because the landlord has supplied no evidence in support of his claim.

Conclusion

Tenant's application

The tenant's application is dismissed in full without leave to reapply.

Landlord's application

I order that the landlord may retain the full security deposit of \$750.00, and have issued a monetary order against the tenant in the amount of \$200.00 to cover the outstanding rent and the filing fee.

The landlords claim for \$350.00 for cleaning is dismissed without leave to reapply.

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: January 21, 2011.

Residential Tenancy Branch