



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, ERP, FF

Introduction

This hearing was convened by way of conference call to deal with the tenant's application for return of all or part of the security deposit or pet damage deposit, for an order that the landlord make emergency repairs for health or safety reasons, and to recover the filing fee from the landlord for the cost of this application.

The tenant attended the conference call hearing, gave affirmed testimony, and provided an evidence package in advance of the hearing. Despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents by personally serving a manager or agent of the manufactured home park on February 21, 2011, no one for the landlord attended the hearing.

All information and testimony provided has been reviewed and is considered in this Decision.

At the outset of the hearing, the tenant advised that he wishes to withdraw the applications for an order that the landlord make emergency repairs for health or safety reasons and the application to recover the filing fee for the cost of this application. Those applications therefore are dismissed as withdrawn.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of all or part of the security deposit or pet damage deposit?

Background and Evidence

The tenant testified that this month-to-month tenancy began around February, 2010 and the tenant still resides in his travel trailer which is located on a pad in the manufactured home park. Rent in the amount of \$350.00 per month is payable on the 1st day of each month, and there are no rental arrears.

The tenant also testified that he paid a security deposit to the landlord in the amount of \$175.00 on February 8, 2010 and provided evidence to support that claim. He stated that he learned that the landlord was not permitted to collect a security deposit, and he has requested it back from the managers but his requests have been ignored. The tenant requests a monetary order in the amount of \$175.00 and that he be permitted to deduct that amount from the rent payable for the month of April, 2011.

Analysis

The *Manufactured Home Park Tenancy Act* states as follows:

17 (2) A landlord must not require or accept a security deposit in respect of a manufactured home site tenancy.

(3) If a landlord accepts a security deposit from a tenant, the tenant may deduct the amount of the security deposit from rent or otherwise recover the amount.

In the circumstances, I find that the tenant has established that the landlord collected \$175.00 for a security deposit on February 8, 2010 contrary to the *Act*. I therefore find that the tenant is permitted under the *Act* to deduct the amount of \$175.00 from rent payable for the month of April, 2011.

Conclusion

For the reasons set out above, I hereby order that the tenant deduct the amount of \$175.00 from the pad rent payable for the month of April, 2011.

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 04, 2011.

Residential Tenancy Branch