



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD , FF

Introduction

This hearing dealt with an application by the tenants for a monetary order for the cost of emergency repairs, return the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Are the tenants entitled to any of the above under the Act.

Background and Evidence

This tenancy began May 15, 2009 with monthly rent of \$2600.00 and the tenants paid a security deposit of \$1300.00.

The tenant testified that on September 30, 2010 the landlord's son came to the rental unit and agreed that the tenants would complete their move-out that day and clean the property on October 1, 2011. Evidence shows that a walk-through of the property was done with the landlord's son who advised the tenants that the house looked acceptable; a move out condition inspection report was not completed.

During the tenancy the landlord forwarded the quarterly city water bills to the tenants for payment and the tenant stated that they had never been told this water bill would be their responsibility as it is not included in the tenancy agreement and the bill is in the landlord's name. The landlord testified that they had never had tenants not pay the water bill before and that it should have been understood by these tenants that this bill was their responsibility. The landlord stated that she had kept the security deposit as the water bills went unpaid and that she did not know that she had to claim against the security deposit.

On October 11, 2010 the landlord's representative sent the tenants an email stating that the landlord was keeping the security deposit to pay the water bill and because the carpets were not clean. The tenants sent their forwarding address in writing and by email to the landlord on November 23, 2010 requesting return of the security deposit. The tenant stated that to date the landlord has not returned the security deposit to them. The tenant stated that during the tenancy the landlord responded to requests for repairs by telling the tenants to take care of them and in October 2009 when the hot water tank stopped working the landlord told the tenants to call a repair company. The tenant stated that they had the hot water tank checked, paid for the cost and then the landlord refused to reimburse them the \$189.00. The landlord said that she had not reimbursed this amount to the tenants because of the \$1326.04 in unpaid water bills.

The tenants in this application are seeking \$2600.00 in return of double the security deposit and \$189.00 for the cost of repairs.

Analysis

Based on the documentary evidence and testimony I find on a balance of probabilities that the tenants have met the burden of proving that they are entitled to a monetary order for return of double the security deposit.

Section 38 (6) of the Act clearly outlines the responsibility of a landlord once the landlord has received the tenants forwarding address in writing. The landlord in this case after receiving the tenants forwarding address in writing, neither returned the security deposit to the tenants within 15 days nor filed a claim against the security deposit. As the landlord has not completed move-in and move-out inspections with the tenants the landlord may not make a claim against the security deposit.

I find that the tenants have established a claim for \$2600.00 in return of double the security deposit.

Based on the documentary evidence and testimony I find on a balance of probabilities that the tenants have met the burden of proving that they are entitled to a monetary order for the cost of repairs. During the tenancy the landlord directed the tenants to take care of repairs themselves with the hot water tank being no exception. The tenants called a repair company as requested by the landlord, paid for the service and then were not reimbursed by the landlord.

I find that the tenants have established a claim for \$189.00.00 in reimbursement of repair costs

The tenants are entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the tenant has established a monetary claim for **\$2789.00** in return of double the security deposit and repair costs. The tenant is also entitled to recovery of the \$50.00 filing fee. I grant the tenant a monetary order under section 67 of the *Act* for **\$2839.00**.

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: July 8, 2011.

Residential Tenancy Branch