



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNSD

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 is a request for a monetary order for \$400.00 and a request to retain a portion of the security deposit towards the claim. The applicant is also requesting recovery of the \$50.00 filing fee.

I deal first with the request to retain the security deposit:

Background and Evidence

This tenancy began on September 25, 2010 and the tenant paid a security deposit of \$550.00 just prior to moving in.

No move in inspection report was done at the beginning of the tenancy.

The landlord testified that they received a forwarding address by e-mail on June 5, 2011.

The landlords applied for dispute resolution on June 20, 2011.

Analysis

Section 23 of the Residential Tenancy Act states the landlord must complete a move in inspection report with the tenant at the beginning of the tenancy and then provide a copy of that report to the tenant.

Section 24 of the Residential Tenancy Act states that if the landlord fails to complete the move-in report, their right to claim against the security deposit for damages is extinguished.

The Residential Tenancy Act states that, if the landlord does not either return the security deposit or apply for dispute resolution within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant double the amount of security deposit.

Therefore in this case, since the landlords failed to comply with the requirement to do the move in inspection report, their right to claim against the security deposit for damages was extinguished and they did not have the right to file a claim against the deposit for damages. The landlords therefore should have returned the full security deposit to the tenants within 15 days of receiving the forwarding address in writing.

This tenancy ended on June 1, 2011 and the landlords have admitted that they had a forwarding address in writing by June 5, 2011, and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore the landlords must pay double the amount of the security deposit to the tenant.

The tenant paid a deposit of \$550.00 and therefore the landlord must pay \$1100.00.

I deal secondly with the landlords claim for damages:

Background and Evidence

The landlord testified that:

- At the end of the tenancy the tenant left the rental unit with numerous gouges and holes in the walls and as a result these holes had to be filled and the walls repainted.
- They also found that the showerhead was missing at the end of the tenancy and therefore they had to replace the showerhead.
- They also want to be paid for their courier and registered mail costs.

The applicants are therefore requesting an order as follows:

Wall repairs and painting	\$336.00
Replace showerhead	\$33.68
Courier costs	\$43.12
Registered mail costs	\$11.72
Filing fee	\$50.00
Total	\$474.52

The respondent testified that:

- The only damage to the walls when she moved out of the rental unit was a dent behind a door caused by the door handle. The door had no doorstop behind it.

- At the beginning of the tenancy the landlords gave her permission to install her own showerhead and at that time the original showerhead was given to the male landlord.

The tenant therefore believes that this full claim should be dismissed.

Analysis

It is my decision that I will not allow any of the landlords claim. The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

In this case the landlord has supplied no supporting evidence to show that the walls in the rental unit were left damaged and in need of repair and repainting and therefore it is basically just the landlords word against that of the tenants and since the tenant claims that the rental unit was left in good condition it is my decision that the landlords have not met the burden of proving their claims.

I also accept the tenant's testimony that the original showerhead was given to the landlord at the beginning of the tenancy when she installed her own. The landlord originally testified that the showerhead was not given to him however he subsequently stated that it is his belief that the showerhead was not given to him, which in my mind leaves some doubt.

Further I also deny the claims for courier costs and registered mail as these are costs of the dispute resolution process and I have no authority to award costs other than the filing fee

Having denied the full claim I also deny the request for recovery of the filing fee.

Conclusion

The landlord's full claim is dismissed without leave to reapply, and I have issued an order for the landlords to pay \$1100.00 to the tenant.

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: September 22, 2011.

Residential Tenancy Branch