

DECISION

Dispute Codes MND, FF, MNSD

Introduction

This hearing dealt with cross applications. The tenant is seeking the return of double the security deposit. The landlord is seeking a monetary order as compensation for damage to the rental unit. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to a monetary order?

Is the tenant entitled to the return of double the security deposit?

Background and Evidence

The tenancy began on or about February 1, 2011 on a fixed term that ended on August 31, 2011. Rent in the amount of \$900.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$450.00.

The tenant gave the following testimony; neither a move in condition inspection nor move out condition inspection was conducted, gave their forwarding address to the landlord in person on August 31, 2011.

The landlord gave the following testimony; a walk through was done at the beginning and end of tenancy but it was never put down on paper, never received the tenants forwarding address in writing and stated he never received any evidence from the tenants prior to this hearing.

Analysis

Dealing firstly with the landlord's application seeking a monetary order for damage done to the rental unit; the landlord has not submitted any evidence to support his claim. In his own testimony he agreed that he had not done a move in or move condition inspection as is required under Section 35 of the Act. Section 36(2)(a) of the Act states that if a landlord does not offer at least 2 opportunities to the tenant to participate in a condition inspection the landlord has extinguished his right to claim against a security deposit or pet deposit. Without knowing the status of the unit when the tenants moved in the landlord has not been able to provide sufficient evidence to support his claim.

The landlord's application is dismissed in its entirety.

The tenant was seeking to have doubled the security deposit returned. The tenant testified that they gave their forwarding address in writing to the landlord in person. The landlord disputes this. The tenant submitted a hand written note that has a signature that they state is the landlord's signature accepting the forwarding address in writing. The landlord stated that he never received any of the documentation that the tenant was relying on during the hearing in this regard. The copy submitted to the Branch of this notice is of a poor quality and with no other signature of the landlord to compare it to, it cannot be relied upon.

The tenants are entitled to the return of the security deposit; however the tenants have not proven that they are entitled to double the amount being returned. As noted above, on the balance of probabilities, I cannot be certain that the landlord ever received the tenants forwarding address in writing.

The tenants have been partially successful in their application.

As for the monetary order, I find that the tenants have established a claim for \$450.00. The tenants are also entitled to recovery of the \$50.00 filing fee. I grant the tenants an order under section 67 for the balance due of \$500.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenants are entitled to a monetary order of \$500.00

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: October 25, 2011.

Residential Tenancy Branch