



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenants' application pursuant to section 38 of the *Residential Tenancy Act* (the *Act*) for authorization to obtain a return of double their security deposit. Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

The landlord's agent (the landlord) confirmed that the landlord received a copy of the tenants' dispute resolution hearing package sent by the tenants by registered mail on September 30, 2011. I am satisfied that the tenants served their hearing package in accordance with the *Act*.

At the commencement of the hearing, the landlord confirmed that the landlord has not filed for dispute resolution to retain a portion of the tenants' security deposit, for unpaid rent or for damage arising out of this tenancy.

Issues(s) to be Decided

Are the tenants entitled to a return of a portion of their security deposit from the landlord? Are the tenants entitled to a monetary award pursuant to section 38(6) of the *Act* for the landlord's failure to return their security deposit in accordance with section 38 of the *Act*?

Background and Evidence

This tenancy began as a four-month fixed term tenancy on January 27, 2011. At the expiration of the initial term of this tenancy, this converted to a periodic tenancy. Monthly rent was set at \$1,025.00, payable in advance on the first of each month. The tenants paid a \$512.50 security deposit on or about January 27, 2011.

The tenants vacated the rental unit on August 31, 2011, without providing written notice prior to August 1, 2011. The parties agreed that they conducted a joint move-in condition inspection on January 26, 2011 and a joint move-out condition inspection on August 31, 2011. The parties agreed that the landlord provided copies of the inspection reports to the tenants and that the move-out condition inspection report included the provision that the tenant agreed to let the landlord retain approximately \$160.00 for

carpet cleaning. According to this portion of the move-out condition inspection report, the landlord was to provide the tenant with a receipt for the carpet cleaning once that cleaning occurred.

The parties agreed that the tenants paid all of their August 2011 rent but did not pay anything for September 2011. The landlord confirmed Tenant TWP's (the tenant's) assertion at the hearing that the landlord was able to rent the premises to another tenant for September 2011. The landlord did not lose any rent as a result of the tenants' failure to provide adequate written notice to end this tenancy. The landlord provided oral and written evidence that no carpet cleaning has yet occurred in this rental unit as the landlord is encountering difficulty in accessing the rental unit to conduct this work.

The parties agreed that the landlord returned \$330.70 of the tenants' security deposit to the tenants. The tenants received this cheque on September 30, 2011. As the landlord did not return all of the tenants' security deposit within 15 days of the end of this tenancy and did not provide a copy of the carpet cleaning receipt, the tenants applied for a monetary award of \$512.50 for the landlord's failure to return all of their security deposit in accordance with the *Act*.

Analysis

Section 38 of the *Act* requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award pursuant to section 38(6) of the *Act* equivalent to the value of the security deposit. However, this provision does not apply if the landlord has obtained the tenant's written authorization to retain all or a portion of the security deposit to offset damages or losses arising out of the tenancy. In this case, the landlord provided undisputed evidence that the tenant signed such an authorization at the end of the condition inspection.

Pursuant to section 63 of the *Act*, the dispute resolution officer may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to resolve all issues arising out of this tenancy on the following terms:

1. The tenant agreed to withdraw the tenants' application for dispute resolution.
2. The landlord agreed that the landlord will not initiate any application for dispute resolution arising out of this tenancy.
3. The landlord committed to supply a copy of the carpet cleaning receipt to the tenant once the carpet cleaning in the rental unit has occurred.
4. Both parties agreed that this agreement constitutes a final and binding resolution of all issues arising out of this tenancy.

Conclusion

The tenants' application for dispute resolution is withdrawn.

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: November 22, 2011

Residential Tenancy Branch