



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, FF
 MNSD, FF

Introduction

This review hearing was reconvened to address the issue of the landlord's completing move-in and move-out inspections, award of the tenant's security deposit to the landlords and whether or not the tenant has a right to double the security deposit. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is either entitled to any of the above under the Act.

Background and Evidence

The landlord testified in the original hearing that the tenant vacated the rental unit on June 30, 2011 and that during the move out inspection the landlord found that the laminate floor had been badly damaged.

The tenant testified in the original hearing that move in and move out inspection reports were never completed therefore the landlord should not be able to claim against the security deposit. The tenant also stated that the landlord had only returned part of her security deposit and that she had never agreed to the landlord keeping any part of the security deposit.

The landlord in the original application applied to keep all or part of the security deposit and for a monetary order for damages.

Analysis

It was determined in the previous hearing that the landlord did meet the burden of proving that they had grounds for entitlement to a monetary order for damages.

And while there was an absence of move in and move out condition inspection reports, the award for damages was based on the landlord's testimony and photographic evidence and the tenant's acknowledgement in the original hearing that the floors were damaged during her tenancy. The testimony of the parties resulted in a monetary order of \$268.79 for damages to the landlord and not in an award to keep the security deposit.

Lack of move-in and move-out inspections does not automatically trigger the tenant's entitlement to return of double the security deposit. Return of double the security deposit is dependent upon the 15 day time limit as outlined in section 38 of the *Act*. And while the landlord's did extinguish their right to keep the security deposit because there were no inspections completed, **the landlord's were not awarded the security deposit.**

The landlord was awarded a monetary order for damages. Section 72 of the *Act* allows for payment from a tenant to a landlord to be awarded out of the security deposit held by the landlord. Therefore the security deposit was used for payment on the landlord's award for damages.

Residential Tenancy Act **Section 72 Director's orders: fees and monetary orders** speaks to:

(1) The director may order payment or repayment of a fee under section 59 (2) (c) [starting proceedings] or 79 (3) (b) [application for review of director's decision] by one party to a dispute resolution proceeding to another party or to the director.

(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

This matter is concluded and no further action is required.

Conclusion

The original decision of November 1, 2011 stands.

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: December 13, 2011.

Residential Tenancy Branch