



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord under the Residential Tenancy Act, (the "Act"), for a monetary order for compensation for damage and loss under the Act, regulation or tenancy agreement, recovery of the filing fee, and an order to retain the security deposit in partial satisfaction of the claim.

Both parties attended the hearing, gave affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and make submissions to me.

Preliminary Matter(s)

The Landlord filed the Application for dispute resolution on February 03, 2012. The parties attended a prior hearing of the Tenants' application on January 31, 2012 and were issued a Decision of the same date which granted the Tenants' a monetary order for return of double their security deposit. The Tenants provided a copy of a Corrected Decision of March 08, 2012 which contains a minor correction to the calculation of the amount of the order in the Decision of January 31, 2012 into evidence.

I find that due to section 77(3) of the Act and the legal principal of Res judicata, I cannot grant the Landlord's request to hear the issue of his request to keep the security deposit as the security deposit was already decided upon at the hearing of January 31, 2012, which the Landlord participated in, and a decision was issued the same date awarding the Tenants double the security deposit. The Landlord's request to keep the security deposit is dismissed.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order for, compensation for damage and loss under the Act, regulation or tenancy agreement and recovery of the filing fee?

Background and Evidence

The Landlord and Tenants agree that they had a tenancy with the Landlord which commenced on January 01, 2010 and ended on November 30, 2011 when the Tenants

moved out. The parties agree that the rent was \$1,700.00 per month due on the first of each month. Neither party provided a copy of a tenancy agreement into evidence.

The Tenants testified that they had a verbal tenancy agreement with the Landlord for the rental unit. The Tenant stated that they were never presented with a written agreement and nothing has been signed. The Tenants stated that there was never an agreement for them to pay the Landlord's alarm monitoring bill for the rental unit and that they resided there for almost two years. The Tenants stated that they understood the alarm system to be included in their rent. The Tenants stated that they paid for regular utilities such as hydro and cable. The Tenants stated they did not think the alarm system was that good and they only used the alarm system because it was there. The Tenants stated that Landlord could have removed the alarm system at any time but did not do so. The Tenants dispute the Landlord's claim as they stated they had no agreement with him to pay for the alarm system monitoring.

The Landlord testified that the rent did not include the alarm monitoring fee. The Landlord stated that he has paid the alarm monitoring bills in the total amount of \$698.53 during the tenancy. The Landlord provided a copy of a letter from the alarm monitoring company into evidence which states the rates he paid for alarm monitoring. The Landlord stated that he told the Tenants about the alarm monitoring for the rental unit at the start of the tenancy and that the Tenants would only have to pay it when the tenancy ended. The Landlord stated that his relationship with the Tenants was good until the end of the tenancy. The Landlord stated that the Tenants like the alarm system and used it and should pay for it. The Landlord stated that he had a verbal agreement with the Tenants to pay for the alarm system monitoring. The Landlord is requesting \$698.53 for his alarm monitoring bills during the tenancy and the filing fee for the application.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord has not substantiated his claim for alarm system monitoring bills with sufficient evidence. While the Tenants may have used the alarm system at the rental unit, this does not mean that they are required to pay for the alarm monitoring bills which are in the Landlord's name. The Tenants dispute that there was any agreement to pay for the alarm monitoring bills and the Landlord has not proven any

agreement existed verbal or otherwise for the Tenants to reimburse the Landlord for these bills. As a result I dismiss the Landlord's claim.

Conclusion

I dismiss the Landlord's claim.

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: April 12, 2012.

Residential Tenancy Branch