



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order permitting her to retain a portion of the security deposit. Both parties participated in the conference call hearing.

Issue to be Decided

Is the landlord barred from making her claim by a settlement agreement?

Background and Evidence

The landlord had filed a claim against the security deposit within 15 days of the end of the tenancy. The parties agreed that on the day before the hearing, the tenants and the landlord's agent, C.L., had a discussion on the telephone in which they agreed that the landlord would return to the tenant the full amount of the security deposit and cancel the hearing. Shortly after that discussion, the landlord's agent wrote out a letter and cheque which were scanned and emailed to the tenants. The letter is addressed "To Whom it May Concern" and reads in part as follows:

I, [C.L.], have spoken to [the tenants] and have the OK of both ... to settle this dispute ... the settlement agreed upon is to mail [the tenants] a cheque for the total amount of \$450.00. They in turn agree to accept this cheque as payment in full for their damage deposit on the above rental home. They also agree to pursue no further compensation of any kind involving either the above rental home or [the landlord].

On the morning of the hearing, C.L. sent a second email to the tenants in which he said, "I haven't received an email with your acceptance of our offer for full refund of damage deposit. Just making sure you received my scan from yesterday." The tenants replied to that email confirming that they had received the email. The landlord took the position that because the tenants did not confirm the settlement agreement via return email, it was not a binding agreement.

Analysis

While it is always advisable and preferable that an agreement be in writing and signed by the parties, it is possible to enter into a binding agreement in which the terms are written but not signed. The letter as summarized above clearly states that an agreement was reached and there is no requirement in the letter for the tenants to sign to indicate their acceptance of the recorded terms. It appears that after the verbal agreement was reached, the landlord attempted to impose another term into the agreement, that the tenants provide written confirmation of their acceptance.

Because the letter is merely a written confirmation that an agreement was reached and because neither party claimed that it was a condition of the oral agreement that a written confirmation be provided, I find that the oral agreement was binding on the parties and acts as a bar to the landlord's claim.

The tenant who participated in the hearing did not dispute that the letter accurately reflected the agreement and I find that the letter accurately reflects the substance of the agreement, which means that upon the return of the \$450.00 security deposit, the tenants are barred from making a further claim against the landlord.

In support of the agreement, I grant the tenants a monetary order under section 67 for \$450.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord's claim is dismissed and the landlord is ordered to return the \$450.00 security deposit to the tenants forthwith.

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: June 11, 2012

Residential Tenancy Branch