



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD and FF

Introduction

This hearing was convened on the landlord's application of April 4, 2012 seeking authorization to retain the tenant's security deposit in set off against damage to the rental unit and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on April 10, 2012 and additional evidence sent by registered mail on May 9, 2012, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to authorization to retain the security deposit in set off against damages and the filing fee.

Background and Evidence

This tenancy began on September 1, 2011 under a six month fixed term agreement becoming a month to month tenancy at the end of February 2012. The tenant vacated the rental unit on March 31, 2012.

During the hearing, the landlord submitted a copy of a letter from the tenant found in her mail box on March 31, 2012 in which the tenant provided his forwarding address and articulated his refusal to participate in the move-out condition inspection. The inspection had been scheduled for 6 p.m. and the landlord stated that she waited some time but the tenant did not appear.

The landlord stated that she had identified one somewhat serious problem in the form of a very strong unpleasant odour in the main bedroom of the rental unit and a couple of cigarette burns which took multiple remedies to address. The landlord submitted receipts for the following claims:

Carpet cleaning	\$ 95.20
Rental cost of HEPA air scrubber	470.40
Industrial deodorant	14.35
Filing fee	<u>50.00</u>
TOTAL	\$685.95

Analysis

Section 36 of the Act provides that:

- (1) The right of a tenant to the return of a security deposit or a pet damage deposit, or both, is extinguished if
 - (a) the landlord complied with section 35 (2) [*2 opportunities for inspection*], and
 - (b) the tenant has not participated on either occasion.

I find that by the tenant's expressed refusal to participate in completion of the move-out condition inspection report, the tenant's right to return of the security deposit has been extinguished.

In addition, section 72(2) of the *Act* authorizes the director's delegate, on finding that an amount is owed to a landlord by a tenant may authorize the landlord to retain the security deposit in set off against the amount owed.

In the present matter, the landlord has asked for only the security deposit.

Having found that the amount owed to the landlord exceeds the amount of the security deposit, and that the tenant's right to claim the deposit has been extinguished, I hereby authorize that the landlord may retain the deposit.

Conclusion

The landlord is authorized to retain the security deposit.

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 01, 2012.

Residential Tenancy Branch