



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has applied to retain the deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The agent for the landlord testified that on May 9, 2012, copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant at the address supplied by the tenants when they gave notice to end their tenancy. A Canada Post tracking number and receipt for each tenant was provided as evidence of service. The landlord stated the mail was successfully delivered.

These documents are deemed to have been served in accordance with section 89 of the *Act*; however the Tenant did not appear at the hearing.

Preliminary Matter

The application indicated the landlord wishes to retain the deposit; the details of the dispute included a breakdown of costs incurred for cleaning. Therefore, I have amended the application to include a claim for compensation for damage to the unit.

Issue(s) to be Decided

May the landlord retain \$440.00 from the deposit paid, as the result of damage to the rental unit?

Is the landlord entitled to filing fee costs?

Background and Evidence

The most recent fixed-term tenancy commenced on July 1, 2011 and was to end effective June 30, 2012. The tenants were to vacate the unit at the end of the fixed-term. The tenants had moved into the unit in December 2009, at which time a security and pet deposit in the sum of \$625.00 each was paid.

The tenants vacated the unit on April 30, 2012, and did not attend the pre-arranged condition inspection. On May 9, 2012, the landlord applied claiming against the deposits, for cleaning. The unit was dirty and had dog hair throughout.

A copy of a note issued by the tenants and received by the landlord on May 29, 2012, was supplied as evidence. The note was signed by the tenants, who agreed the landlord could make deductions from the deposit.

The landlord supplied evidence of cleaning costs in the sum of \$300.00 and carpet cleaning of \$140.00. In June, 2012, the balance of the deposit, \$810.00 was returned to the tenants.

The landlord submitted the application shortly after the tenancy ended as they had not been able to reach agreement with the tenants. The landlord withdrew their request for filing fee costs.

Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

Based on the written agreement of the tenants and the evidence verifying the condition of the unit and costs incurred for cleaning, I find that the landlord is entitled to retain \$440.00 from the deposits held in trust.

The landlord has returned the balance of the deposits to the tenants and does not require a monetary Order.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$440.00 which has been satisfied. The amount was retained from the deposits and the balance of the deposits has been returned to the tenants.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: July 05, 2012.

Residential Tenancy Branch