



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 tenant's application of May 7, 2012 for a return of a portion of their security and pet damage deposits said to have been retained by the landlords without their consent or application for dispute resolution to claim against them.

As a matter of note, the male tenant was calling from a boat and the signal interference was so strong that no other participants were able to be heard. Therefore, he kindly left the hearing early and was represented by the female tenant.

Issue(s) to be Decided

This matter requires a decision on whether the tenants are is entitled to return of the unreturned portion of their security and/or pet damage deposits deposit and whether the amount should be doubled.

Background and Evidence

This tenancy began on November 1, 2009 and ended in April 2012 on a date that is in dispute. Rent was \$1,300 per month and the landlords hold security and pet damage deposits of \$650 each.

The parties concur that the one-year fixed term agreement had not been renewed in 2011, although the acknowledged their intention that it was to be so. Without a current written agreement, the tenancy must be considered as a month to month tenancy.

The parties further concur that the tenants gave verbal notice on February 28, 2012 of their wish to end the tenancy on April 30, 2012, accepted by the landlords.

The parties are in agreement that, at the end of the tenancy, the landlords returned to the tenants \$1,480.87, an amount that exceeded the value of the deposits plus the agreed to \$65 interest.

The amount claimed by the tenants as security and pet damage deposits, \$800.13, is actually made up of a doubling of an early move-out bonus of approximately \$400 which the tenants stated was due when they left the tenancy on April 9, 2012 as per a verbal agreement with the landlords. The landlords stated that the possibility of the bonus had been mentioned in casual conversation but they had never made a commitment to it, and there is no written agreement to that effect.

The landlords submitted evidence of damage to the rental unit, but it could not be considered under the tenants' application for return of the deposits.

As a matter of note the, the amount returned to the tenants exceeded the deposits due to a \$120 credit the landlords granted the tenants for shower curtains the tenants had installed.

Analysis

Section 38(1) of the *Act* allows a landlord 15 days from the latter of the end of the tenancy or receipt of the tenant's forwarding address to return security and pet damage deposits or file for dispute resolution to make claim against them unless the tenant has agreed otherwise in writing as per section 38(4). Section 38(6) of the *Act* states that, if a landlord does not comply with section 38(1) of the *Act*, the landlord must pay the tenant double the amount of the deposits.

In the present matter, I find that the \$1,480.87 returned to the tenants exceeds the total of the security and pet damage deposits and interest and that the landlords have satisfied the requirements of section 38(1) of the *Act*.

As there was no written agreement of the \$400 early move bonus and as the parties disagree on the question, the application did not lend itself to amendment to consider that claim.

Therefore, the application is dismissed with leave to reapply.

The landlords remain at liberty to make application for damage to the rental unit.

Conclusion

The application is dismissed with leave to reapply.

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: July 03, 2012.

Residential Tenancy Branch