



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenants only. The hearing lasted for 20 minutes and neither landlord called in.

The tenants submitted documentary evidence to confirm the landlords were served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on July 6, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the landlord on the 5th day after it was mailed.

In addition, the landlords had submitted into evidence several documents and photographs on August 29, 2012 and August 30, 2012 respectively. As the landlord was not in attendance I am not able to put the landlords' evidence into any particular context for this hearing and as such, I have not considered the landlords' evidence.

Based on the submissions of both the tenants and the landlords, I find that the landlords have been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for all or part of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

Background and Evidence

The tenants provided into evidence the following documents:

- A copy of a Tenancy Agreement signed by the parties on November 13, 2012 for a 6 month fixed term tenancy beginning on December 1, 2012 for a monthly rent of \$1,600.00 due on the 1st of each month with a security deposit of \$800.00 and a pet damage deposit of \$800.00 paid;
- A copy of a Condition Inspection Report signed by the male tenant on December 1, 2011 agreeing with the record of the condition of the rental unit at move in and on May 31, 2012 agreeing with the record of the condition of the rental unit at move out. The Report also includes the male tenant's signature agreeing to the deduction of \$800.00 from the security deposit and \$800.00 from the pet damage deposit; and
- A copy of a letter dated June 11, 2012 from the landlord to the tenants providing a copy of the Condition Inspection Report; quotes for repairs required and an explanation of the breakdown of amounts owed from the landlord's perspective.

The tenants have provided a handwritten breakdown of how they determined the amount of their claim beginning with the total of the deposits of \$1,600.00 the tenants agree to deduct \$275.00 for hydro and gas and \$61.59 for pay-per-view charges, leaving a balance of \$1,263.41.

The male tenant did not have access to a copy of the Condition Inspection Report during the hearing but the female tenant did. I asked the male tenant if he had signed the section on the Report that agrees to have the landlord deduct \$800.00 from the security deposit and \$800.00 from the pet damage deposit and he agreed that he likely had signed it.

The male tenant went on to say that he would not have signed it had he believed he was authorizing the landlord to retain any of the deposits. He stated he believed the section merely was acknowledging how much each of the deposits was.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security and pet damage deposits less any mutually agreed upon deductions (in writing) or file an Application for Dispute Resolution to claim against the security or pet damage deposits. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

From the evidence before me I find the tenants agreed to deductions from both deposits in the total amount of \$1,600.00 and as such the landlord, pursuant to Section 38, is not required to return any amounts to the tenants from either the pet damage or security deposits.

Conclusion

For the reasons noted above, I dismiss the tenants' Application in its entirety.

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: September 12, 2012.

Residential Tenancy Branch