



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call in response to the tenant's application to recover double the security deposit.

The tenant and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Preliminary Issues

The parties advised me there was an error in the landlord's legal name. The parties did not raise any objections to the landlord's name being corrected and this has now been amended.

Issue(s) to be Decided

Is the tenant entitled to recover double the security deposit?

Background and Evidence

The parties agree that this tenancy started on August 01, 2009. This started as a fixed term tenancy which reverted to a month-to-month tenancy at the end of the fixed time. Rent for this unit \$792.00 and was due on the first of each month. The tenant paid a security deposit of \$370.00. The tenancy ended on June 30, 2012. The parties also agree that they attended a move in and a move out condition inspection off the property at the start and end of the tenancy and the tenant provided his forwarding address in writing on that move out condition report on June 30, 2012.

The tenant testifies that the landlord only returned a portion of his security deposit. The tenant states the landlord returned \$170.95 on July 5, 2012 and a further \$75.00 on July 11, 2012. The tenant testifies that he did not give the landlord permission to keep all or part of his security deposit. The landlord also testifies that the landlord withheld the sum of \$40.05 and used this money to pay the tenants Hydro Bill. The tenant testifies that there was no reason for the landlord to pay this the bill as it was not due until July 20, 2012 and the tenant had provided his forwarding address to the Hydro Company. The tenant has provided a copy off the Hydro Bill which clearly shows his new address. The tenant testifies that the landlord also withheld the sum of \$84.00 for carpet cleaning. However the tenant testifies that he had cleaned the carpets at the end of the tenancy and the property manager had seen that he had cleaned them when she came to his unit.

The landlord's agent agrees that they retained the sum from the security deposit of \$84.00 for carpet cleaning and \$40.05 to pay the Hydro Bill and this bill was paid on July 5, 2012. The landlord's agent testifies that they agree that the amounts retained can be doubled.

The tenant testifies that as the landlord has now paid the Hydro Bill the landlord may deduct this sum of \$40.05 from the tenants claim.

Analysis

I have reviewed the testimony and documentary evidence before me I Refer the Parties to Section 38(1) of the *Act* which states that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlords did receive the tenants forwarding address in writing on June 30, 2012. As a result, the landlords had until July 15, 2012 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlords did not return all the security deposit and have not filed an application for Dispute Resolution to keep the deposit. Therefore, I find that the tenant has established a claim for the return of double the security deposit, less the amount already paid by the landlord and less the cost paid for the Hydro bill as agreed by the tenant, pursuant to section 38(6)(b) of the *Act*.

The tenant is entitled to a Monetary Order as follows:

Double the security deposit	\$740.00
Less the amount returned	(-\$245.95)
Less the amount for the Hydro	(-\$40.05)
Total amount due to the tenant	\$454.00

Conclusion

I HEREBY FIND in favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$454.00**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: October 05, 2012.

Residential Tenancy Branch