



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD FF

Introduction

This hearing dealt with applications by the tenants and the landlord. The tenants applied for double recovery of the security deposit. The landlord applied for monetary compensation and an order to retain the security deposit in partial compensation of the monetary claim. One tenant and the landlord participated in the teleconference hearing.

I received late evidence from the tenant after the hearing concluded. I did not admit or consider that evidence. I have reviewed all testimony and other admissible evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Are the tenants entitled to double recovery of the security deposit?
Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on September 1, 2010, with a monthly rent of \$1495. At the outset of the tenancy, the tenant paid the landlord a security deposit of \$750. The tenancy ended in October 2011.

Tenant's Evidence

At the end of August 2011, the tenant left a notice in his landlord's mailbox, indicating that the tenant would be vacating the rental unit at the end of September 2011. The tenant vacated the rental unit on October 1, 2011. The tenant attempted several times to call the landlord but received no response. The tenant then cancelled his rent cheque for October 2011. The tenant returned the key to the landlord. There was some confusion about the outstanding utilities, but as of the date of the hearing, the tenant paid off all of the utilities he owed. The tenant gave the landlord his forwarding address

by email on June 5, 2012. The landlord applied to keep the security deposit on August 16, 2012. The tenant has therefore applied for double recovery of his security deposit.

Landlord's Evidence

The landlord never received the tenant's notice to vacate. On August 30, 2011, the tenant gave the landlord rent cheques for September and October 2011, and he said nothing at that time about moving out. The tenant knew that the landlord would be leaving town on September 1, 2011. The landlord was not aware that the tenant had moved out until October 12, 2011, when the landlord discovered that the tenant had put a stop payment on his October 2011 rent cheque. The tenant gave his key to a stranger, and that person moved into the rental unit but did not pay rent for October or the first half of November. The landlord has claimed \$1495 in rent for October 2011; \$5 for a bank service charge for the stop payment on the October rent cheque; \$750 for half a month's rent for November 2011 and \$261.91 for unpaid utilities for September 1, 2011 to November 9, 2011.

The landlord acknowledged that he received the tenant's forwarding address by email on June 5, 2012, but the landlord thought that the tenant was providing his forwarding address so that the landlord could forward the utilities bills to the tenant.

Analysis

Tenant's Application

Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit.

In this case, the tenancy ended in October 2011, and the tenant provided a forwarding address by email on June 5, 2012. The landlord acknowledged that he received the tenant's forwarding address on June 5, 2012, but he did not repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing. I therefore find that the tenant has established a claim for double the security deposit in the amount of \$1500. As the tenant's application was successful, he is also entitled to recover the \$50 filing fee for this application, for a total award of \$1550.

Landlord's Application

I find that the landlord is entitled to rent for October 2011, in the amount of \$1495. The tenant did not provide sufficient evidence that he served the landlord his notice to vacate. I find that the landlord was not aware that the tenancy ended until October 12, 2011.

The landlord is not entitled to \$750 in lost revenue for November 2011, as the landlord did not provide sufficient evidence that he took all reasonable steps to attempt to re-rent the unit for November 2011. The landlord did not provide sufficient evidence to support his application for the \$5 bank service fee or the utilities bill. I therefore dismiss these portions of the landlord's application.

As the landlord was partially successful in his application, I find he is entitled to partial recovery of his filing fee, in the amount of \$25.

Conclusion

The tenant is entitled to a total of \$1550. The landlord is entitled to a total of \$1520. I grant the tenant a monetary order for the balance of \$30. This order may be filed in the Small Claims Court and enforced 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 22, 2012.

Residential Tenancy Branch