



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNSD

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenants, and one brought by the landlords. Both files were heard together.

The tenant's application is a request for an order for return of double the \$600.00 security deposit, for a total order of \$1200.00.

The landlord's application is a request for a monetary order for \$1200.00 and an order for recovery of the \$50.00 filing fee.

Tenant's application

The tenant(s) have applied for the return of double their security deposit; however the tenant(s) did not give the landlord(s) a forwarding address in writing, as required by the Residential Tenancy Act, prior to applying for dispute resolution. The tenants sent the

landlord a letter requesting the return of their security deposit however; they failed to supply a forwarding address.

Therefore at the time that the tenant(s) applied for dispute resolution, the landlord(s) were under no obligation to return the security deposit and therefore this application is premature.

Landlords application

Background and Evidence

The landlords testified that:

- On September 11, 2012 the tenants offered to lease the residential premises for October 1, 2012 at a monthly rent of \$1200.00, and on September 15, 2012 their application was accepted and the tenants paid a security deposit of \$600.00.
- On September 25, 2012 the tenant informed them they no longer wanted to move in on October 1, 2012 and requested their security deposit be returned.
- They attempted to re-rent the unit for as soon as possible, however they were unable to rent the unit for the month of October 2012, and as a result they lost the full rental revenue for that month. The unit was re-rented for November 1, 2012.
- They are therefore requesting an order that the tenants be held liable for the lost rental revenue of \$1200.00.
- They further request an order allowing them to keep the full security deposit of \$600.00 towards the claim and request a monetary order issued for the difference plus their filing fee.

The tenant testified that:

- On September 11, 2012 they did submit an offer to lease the residential premises for October 1, 2012, and the landlords informed them on September 15, 2012 that their offer had been accepted.
- They therefore paid a security deposit of \$600.00 on September 15, 2012.
- A couple of days later they "Googled" the bedbug Registry and found that this rental property have had numerous problems with bedbugs.
- Not wanting to have their belongings infested with bedbugs they decided not to move into the rental unit and inform the landlords that they would not be moving in on October 1, 2012.

- They believe the landlord had an obligation to disclose the fact that the building had had bedbugs and since landlord failed to do so they do not believe they should be held liable for any lost rental revenue.
- Further since they never signed a formal tenancy agreement, they don't believe any tenancy exists.
- They therefore ask that the landlord's application be dismissed.

In response to the tenant's testimony the landlords testified that:

- The particular rental unit in question does not have a bedbug infestation, nor do any of the units around this particular rental unit.
- The bedbug infestation was in fact in a completely different section of the rental property and not near this particular rental unit.
- Further they have dealt with the bedbug issue in a professional manner and do not believe they had any obligation to inform the tenants that one area of the rental property had at one time had a bedbug infestation.
- That being said however, on the date that the female tenant came to pay the security deposit the residential manager discussed the fact that there had been bedbugs in the rental property but that none of those bedbugs were in or near the unit she was renting.

Analysis

It is my finding that the tenants did not have the right to end this tenancy without proper notice.

The tenant stated they had not even sign the tenancy agreement, however they had given the landlords a written offer to lease the residential premises, and the landlords had accepted that offer, along with a security deposit, and therefore it's my finding that a tenancy does exist, even though no formal written tenancy agreement has been finalized.

Further the tenants have not met the burden of proving that there was any bedbug infestation in the rental unit in question.

The male tenant testified that he does not believe that the landlord discussed bedbugs with the female tenant on the date that she paid the security deposit; however the female tenant was not available for today's hearing to give any direct testimony.

Further it is my finding that the landlord was under no obligation to inform the tenants that the rental property had had a previous bedbug infestation, especially since infestation was not in the rental unit in question, nor in any of the surrounding units.

It is my decision therefore that the tenants are liable for the lost rental revenue for the month of October 2012.

I also order recovery of the landlord's \$50.00 filing fee.

Conclusion

Tenant's application

As stated above the tenant's application was premature and I will not be ordering return of double the security deposit.

Landlord's application

I have allowed the landlords full claim of \$1250.00 and I therefore order that the landlords may retain the full security deposit of \$600.00 and I've issued a monetary order in the amount of \$650.00.

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: January 31, 2013

Residential Tenancy Branch

