



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing was scheduled in response to an application by the tenants for a monetary order as compensation reflecting the return of their original security deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on December 1, 2011. Monthly rent of \$700.00 was due and payable in advance on the first day of each month, and a security deposit of \$350.00 was collected. There is no move-in condition inspection report in evidence.

On September 30, 2012 it appears that the tenants gave oral notice to end tenancy effective at the end of October 2012. Subsequently, by letter dated October 1, 2012, the tenants provided notice in writing, and in this same letter they informed the landlord of their forwarding address. While the tenants testified that the letter was personally delivered to the landlord on October 1, 2012, the landlord testified that he could not recall that being the case. Thereafter, the tenants vacated the unit around mid October 2012. There is no move-out condition inspection report in evidence.

The landlord testified that new renters were found for the unit effective from December 1, 2012. The landlord also testified that delay in re-renting the unit was the result of cleaning and repairs required in the unit following the end of tenancy. The tenants testified that while they vacuumed the carpets at the end of tenancy, they did not

shampoo the carpets. The tenants deny any wilful damage to the unit during the term of their tenancy.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute, and undertook to achieve a resolution.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 63 of the Act addresses the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties led to a resolution, and it was agreed as follows:

RECORD OF SETTLEMENT

- that the tenants **withdraw** their application to recover the \$50.00 filing fee;
- that the landlord will **repay** the full amount of the original security deposit to the tenants in the amount of **\$350.00**, and that a **monetary order** will be issued in favour of the tenants to that effect;
- that the above payment will be by way of **cheque** made payable to tenant "WIR";
- that the cheque will be **mailed** to the tenants at the address shown on their "application for dispute resolution";
- that the cheque will be put into the mail by no later than **midnight, Tuesday, February 26, 2013**;
- that the above particulars comprise **full and final settlement** of all aspects of the dispute arising from this tenancy for both parties.

Finally, for information, the attention of the parties is drawn to the following sections of the Act:

Section 23: **Condition inspection: start of tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

Section 38: **Return of security deposit and pet damage deposit**

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$350.00**. Should it be necessary, this order may be served on the landlord, 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: February 25, 2013

Residential Tenancy Branch

