



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenants and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Tenants applied on March 13, 2013 for:

1. An Order for the return of double the security deposit – Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on January 18, 2013 for:

1. A Monetary Order for damage to the unit – Section 67;
2. A Monetary Order for compensation – Section 67;
3. An Order to retain all or part of the security deposit – Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenants and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Are the Tenants entitled to the monetary amounts claimed?

Is the Landlord entitled to the monetary amounts claimed?

Are the Parties entitled to recovery of their respective filing fees?

Background and Evidence

The following are undisputed facts: The tenancy started on September 1, 2011 and ended on October 31, 2012. Rent of \$1,650.00 was payable monthly and at the outset of the tenancy the Landlord collected \$825.00 as a security deposit. A move-in inspection was conducted however the Parties could not mutually agree on a time to conduct the move-out inspection. The Landlord completed the inspection and sent the report later than 15 days after the inspection. The Tenant provided the forwarding address on September 28, 2013. The Tenant failed to clean the carpets for a cost to the Landlord of \$70.00.

The Tenants claim return of double the security deposit.

The Landlord claims as follows:

- \$128.00 for the cost of new locks and keys as the Tenant did not return all the keys provided at the beginning of the tenancy. The Landlord provided a receipt for this cost. The parties agree that only a front door key and a fob were returned at the end of the tenancy and the Landlord states that the keys for the back door, shed and garage were not returned. The Tenant states that they returned all the keys they used during the tenancy and did not receive any other keys. The Tenant states that the shed and garage keys were not used during the tenancy and that the move-in inspection does not itemize the keys provided at the onset of the tenancy. The Landlord states that the shed was unlocked at the end of the tenancy;
- \$100.00 for the cost to replace a set of blinds. The Landlord states that the blinds have not been replaced and that although the blinds work, they do not work very well due to problems with the mechanism. The Parties agree that the blinds themselves are not damaged. The Tenant states that the blind mechanism did not work properly at the beginning of the tenancy and that the Tenant attempted to fix the mechanism but could not due to its installation. The

Tenant disputes that the cost claimed by the Landlord is an actual cost to fix the mechanism;

- \$75.00 for a gas and meals for a trip to the unit on November 4, 2013 to verify that the Tenants belongings were all gone. The Landlord states that as the Tenant left belongings for a number of days after the end of the tenancy the Landlord had to make repeated trips to ensure the unit was vacant. No receipts were provided.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Landlord failed to make an application for dispute resolution claiming against the security deposit, and failed to return the security deposit within 15 days of receipt of the Tenant's forwarding address, I find that the Landlord is required to pay the Tenants double the security deposit in the amount of **\$1,650.00**.

In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Given the Tenant's agreement on the cost of cleaning the carpets I find that the Landlord has substantiated the claim for **\$70.00**. Although the Tenant denies receiving the keys claimed by the Landlord, I find the Tenant's evidence on this point to be weak given that one of those keys were to the shed and the shed was left unlocked at the end of the tenancy. Given this finding and the provision of the receipt for the cost of the keys, I therefore find that the Landlord has established a monetary entitlement to **\$128.00**.

Given the Tenants evidence of the blinds being undamaged and that the mechanism was not working at move-in and considering that the Landlord has not replaced the blinds that are still useable, I find that the Landlord has failed to substantiate the cost for a new set of blinds and I dismiss this claim. Given the lack of receipts for the gas and meal costs claimed, I find that the Landlord has failed to establish the costs claimed and I dismiss this claim.

As both Parties have been successful with their claims, I decline to award either Party recovery of their filing fees. As the Landlord has been found entitled to **\$198.00** and the Tenant has been found entitled to **\$1,650.00**, I set these awards off each other leaving only the Tenant with an entitlement of **\$1,452.00**

Conclusion

I grant the Tenant an order under Section 67 of the Act for the amount of **\$1,452.00**. If necessary, 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: April 03, 2013

Residential Tenancy Branch

