



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

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

The tenant's application is a request for an order for return of his security deposit, and a request for recovery of the \$50.00 filing fee.

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

Some documentary evidence, photo evidence, and written arguments have 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

Is the tenant entitled to an order for return of his security deposit?

Is the landlord entitled to a monetary order for damages and cleaning?

Background and Evidence

This tenancy began on October 1, 2011 and the security deposit of \$525.00 was paid at the beginning of the tenancy.

This tenancy ended on March 31, 2013 and the landlord has admitted to receiving a forwarding address in writing by April 12, 2013.

The tenant testified that:

- He verbally agreed to allow the landlord to keep \$35.00 of the security deposit, and did not agree to any further deductions.
- The landlord later made more deductions to the security deposit to which he did not agree and only \$320.00 was deposited to his bank account.

The landlord testified that:

- Her husband did tell the tenant that the repairs to the unit would only cost \$35.00, however he was referring to materials only and this did not include labour.
- Further, after the tenant vacated they found more damages, which included a damaged window crank, and the need for further cleaning.
- Therefore with the cost of labour, and the further damages and cleaning, they are requesting a total order of \$195.00 plus recovery of the \$50.00 filing fee.
- She has provided evidence that shows that a wire transfer of \$330.00 was sent to the tenant's bank account, so she does not know why only \$320.00 was deposited into his account.

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

- When the landlord's husband did the moveout inspection he specifically stated the charge would be no more than \$35.00 as he would be doing the work himself and would not be charging labour.
- He did no damage to the window crank in the rental unit, it was not working properly when he moved in, and he was even informed of the problem by the previous tenant.
- He does not think it's reasonable to come back and charge for more damages and cleaning after a thorough inspection was done and nothing was mentioned at that time.

Analysis

Tenant's application

The Residential Tenancy Act states that, if the landlord does not either return the security deposit, get the tenants written permission to keep all or part of the security deposit, or apply for dispute resolution within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant double the amount of security deposit.

The landlord has not returned the tenants full security deposit or applied for dispute resolution to keep any or all of tenant's security deposit and the time limit in which to apply is now past.

This tenancy ended on March 31, 2013 and the landlord had a forwarding address in writing by April 12, 2013 and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore, even though the tenant has not applied for double, I am required to order that the landlord must pay double the amount of the security deposit to the tenant, less any amount already returned, and less the \$35.00 deduction agreed-upon by the tenant.

The security deposit paid was \$525.00, and therefore the landlord must pay \$1050.00 less the \$330.00 returned, and the \$35.00 deduction agreed-upon, for difference of \$685.00.

I have allowed the full \$330.00 even though the tenant claims that only \$320.00 was deposited to his account, because the evidence provided by the landlord shows that \$330.00 was sent by wire transfer and also states that there is a .00 service charge for the transfer. Therefore if \$10.00 was deducted I find it most likely that it was deducted by the tenant's bank.

I also allow the tenants request for recovery of the \$50.00 filing fee.

Landlord's application

It's my decision that I will not allow any of the landlords claim.

The purpose of the moveout inspection is to ensure that both the landlord and the tenants inspect the property together so that the landlord can indicate any need for further cleaning or repairs.

In this case both the tenant and the landlord's husband did the moveout inspection together and the need for some repairs was agreed-upon, however nothing was said about a need for further cleaning. At the time the landlord stated that the cost for the

repairs would be no more than \$35.00. It's my decision that the landlords are bound by that amount.

It's not reasonable for landlords to come back after the moveout inspection has been done, and state that there are now other problems that require further repairs or cleaning, or that they now want to charge a larger amount than agreed-upon for the repairs.

Conclusion

I have allowed \$735.00 of the tenants claim and I've issued a monetary order for the landlord to pay that amount to the tenant.

The landlord's application is dismissed in full without leave to reapply.

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: July 15, 2013

Residential Tenancy Branch

