



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security and pet deposits in partial satisfaction of the claim. Both parties participated in the conference call hearing.

Issue to be Decided

Are the landlords entitled to a monetary order as claimed?
Should the landlords be authorized to retain the deposits?

Background and Evidence

The parties agreed that the tenancy began on June 1, 2010 and that the tenants surrendered possession of the unit by returning the keys on September 17, 2013. They further agreed that rent was set at \$750.00 per month. The landlords testified that they received a \$350.00 security deposit and a \$350.00 pet deposit at the outset of the tenancy and provided a copy of the tenancy agreement in which it specified that a \$350.00 deposit was payable. The tenant testified that each deposit was \$375.00 and claimed that she had a copy of the tenancy agreement in which the parties had crossed out \$350.00 and initialled a change to \$375.00. The tenant did not enter this tenancy agreement into evidence.

The landlords testified that the tenant phoned them on August 30, 2013 to advise that she no longer felt safe in the rental unit after a break in and that she intended to end the tenancy. The landlords stated that they advised the tenant that she had to give one month's notice. The tenant testified that on August 14, she gave verbal notice that she would be ending her tenancy and testified that the landlords told her that she would have to pay for half of September's rent. The tenant claimed that she directly deposited \$375.00 into the landlords' bank account on September 1. The tenant did not provide

proof of this transaction and the landlords claim that they received no monies for the month of September.

The landlords testified that they lost income for the month of September because of the tenant's inadequate notice and the fact that she did not return the keys to the unit until September 17.

The landlords seek an award of \$750.00 representing lost income for September and seek to retain the deposits in partial satisfaction of the claim. They also seek to recover the filing fee paid to bring this application.

Analysis

First addressing the disputed amount of the pet and security deposits, although typically tenants pay one half of one month's rent for a deposit, which is the maximum allowable under the Act, in this case the tenancy agreement which was entered into evidence by the landlord shows that \$350.00 was payable. Although the tenant claimed that on her copy of the tenancy agreement the parties had entered \$375.00 and initialled, the landlord denied having made such an amendment to the agreement and as the amended copy was not before me, I am unable to find that the tenant paid that higher amount. I therefore find that the tenant paid \$350.00 for each of the pet and security deposits.

Section 45 of the Act provides that when a tenant gives a landlord notice to end a tenancy, that notice must comply with section 52, which requires that the notice be in writing. The tenant acknowledged that she did not provide written notice to the landlord and I find that her verbal notice was ineffective to end the tenancy. I find that the tenant was obligated to pay rent for the full month of September as she had not ended the tenancy.

Although the tenant claimed to have directly deposited \$375.00 into the landlords' bank account, the landlords denied having received that payment and the tenant did not provide evidence to corroborate that the transaction took place. I therefore find that the landlords are entitled to recover the entire amount of rent for the month of September and I award them \$750.00. As the landlords have been successful in their application, I find that they are entitled to recover the \$50.00 filing fee paid to bring their application and I award them that sum for a total award of \$800.00.

Section 72(2)(b) allows me to offset an award to the landlords against a pet and security deposit and I find it appropriate to do so in these circumstances. I order the landlords to retain the \$350.00 pet deposit and the \$350.00 security deposit in partial satisfaction of

the claim and I grant them a monetary order under section 67 for the balance of \$100.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlords are granted a monetary order for \$100.00 and will retain the pet and security deposits.

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: December 10, 2013

Residential Tenancy Branch

