



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

The tenants apply to recover a \$412.50 security deposit doubled pursuant to s. 38 of the *Residential Tenancy Act* (the “Act”).

Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that the tenants are entitled to the relief claimed?

Background and Evidence

The rental unit is a one bedroom apartment. The tenancy started in February 2010 and ended April 30, 2013. The rent had been \$835.00 monthly.

At the end of the tenancy the parties agreed that the carpets needed to be professionally cleaned. All knew that “Joseph’s” did the carpet cleaning for the apartment. The tenants had called Joseph’s and confirmed for themselves the cost would be about \$90.00. They verbally authorized the landlords to deduct the carpet cleaning cost from the deposit and send the balance to the tenants.

The landlords hired Joseph’s and paid \$89.25 for the carpet cleaning. They deducted that amount from the security deposit plus the amount of \$35.00 for what the landlord Mr. V. described at hearing as “preparation” of the carpets for the cleaning, namely vacuuming. He testified that the \$35.00 was a standard charge and that the tenants would have been informed of it had they asked.

The tenants by their advocate reply that they had vacuumed the carpets themselves.

Analysis

As stated at the hearing, s.38 of the *Act* allows a landlord to keep from a deposit an amount a tenant “agrees in writing” the landlord may keep.

In this case the landlords did not have written authority to keep any portion of the deposit and, technically, are exposed to a monetary award for double the entire deposit less what was returned.

However, it cannot be ignored that the landlords' breach of the writing requirements of s. 38 were aided by the tenant's verbal authorization.

I find the tenants cannot fairly deny that landlords were entitled to retain from the deposit the reasonable cost of professional carpet cleaning. In the circumstances it would be unfair to permit them to advance a contrary claim. At the same time, the landlords were wrong to impose a \$35.00 cost for their own services without the explicit authorization of the tenants. It was reasonable for the tenants to rely on the Joseph's quote to determine how much the landlords could keep.

In result, I find the tenants are entitled to recover that \$35.00 amount wrongly withheld by the landlords. Further, I find the tenants are entitled to a doubling of that amount under s. 38 because the *Act* imposes the obligation of compliance with security deposit rules on landlords and the landlords in this instance did not comply. Had the landlords obtained the tenants' authorization in writing, as they were required to do, this dispute would have resolved itself at the start.

Conclusion

The tenants are entitled to an award of \$70.00 plus the \$50.00 filing fee. There will be a monetary award against the landlords jointly and severally in the amount of \$120.00.

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: December 30, 2013

Residential Tenancy Branch

