



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application for a Monetary Order for \$950.00 and a request for recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments has 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 applicant entitled to a Monetary Order for \$950.00?

Background and Evidence

This tenancy began on August 1, 2012 and at that time a security deposit of \$475.00 was collected.

This tenancy ended on August 31, 2013 and the landlord was personally given a forwarding address in writing on September 3, 2013.

To date the landlord has not returned any of the tenant's security deposit, nor has the landlord applied for dispute resolution to keep any or all of the tenant's security deposit.

The landlord testified that

- She did not return the security deposit because she believes that the tenant had given her written permission to keep the security deposit for cleaning and repairs.
- On the moveout inspection report the tenant signed that he agreed with the following:
 1. Molly Maid to clean all condo. Kevin approves entire clean.
 2. Floors door entrance carpet replaced.
 3. Replace 16 feet across-10 ft. towards window plus fireplace carpet with durable replacement to be estimated by professional. Kevin will approve my decision best of my knowledge as advised and deducted from damage deposit and estimate carpet replace.

The tenant testified that:

- He did not agree to the landlord deducting any money from his security deposit.
- He did agree to have the landlord hire Molly Maid to clean the rental unit, and he agreed that the landlord would get estimates for his approval with regards to the floors.
- The landlord did show him estimates for flooring, however he did not agree to those estimates and never agreed to money being deducted from his security deposit.

Analysis

It's my finding that the landlord has not met the burden of proving that the tenant ever agreed to any deductions from his security deposit for cleaning or repairs.

The moveout inspection report does state that the tenant agreed to having the rental unit cleaned, and did agree that the landlord would get estimates for replacing flooring, however there is no specific agreement that the amounts would be deducted from the security deposit, and in fact the way it's written on the moveout inspection report, requires approval by the tenant, and there is no evidence to show that that approval was ever given.

There is a section on the moveout inspection report on page 3 where the tenant can agreed to deductions from the security deposit, however that section has not been filled out, and therefore I do not accept that there was any agreement for cleaning and repairs to be deducted of the security deposit.

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 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 August 31, 2013, and the landlord had a forwarding address in writing by September 3, 2013 and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore the landlord must pay double the amount of the security deposit to the tenant.

The tenant paid a security deposit of \$475.00, and therefore the landlord must pay \$950.00 to the tenant.

I also order recovery of the \$50.00 filing fee.

Conclusion

I have issued an order for the respondent to pay \$1000.00 to the applicant.

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 02, 2013

Residential Tenancy Branch

