



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, RPP, FF

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- authorization to retain a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants applied for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenants confirmed that they received copies of the landlord's dispute resolution hearing package sent by the landlord by registered mail on November 14, 2013. The landlord confirmed that he received a copy of the tenants' dispute resolution hearing package sent by the tenants by registered mail on November 27, 2013. I am satisfied that the parties served one another with their dispute resolution hearing and written evidence packages in accordance with the *Act*.

Issues(s) to be Decided

Should a monetary Order be issued to either party? Which of the parties is entitled to the tenants' security deposit? Are either of the parties entitled to recover their filing fees from one another?

Background and Evidence

This periodic tenancy began on or about February 1, 2009. Monthly rent throughout this tenancy was set at \$1,200.00, payable in advance on the last day of each month, plus 40% of the utilities for this rental property. The landlord continues to hold the tenants' \$600.00 security deposit paid on or about February 1, 2009.

The landlord gave undisputed sworn testimony that on September 30, 2013, the tenants handed him their notice to end this tenancy by October 31, 2013. The tenants yielded vacant possession of the rental unit to the landlord on October 31, 2013.

The landlord applied for a monetary award of \$440.04. At the hearing, the tenants revised their application for a monetary award of \$1,040.04 to \$440.04. The tenants agreed to allow the landlord to retain \$168.20 from their security deposit.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to resolve all issues arising out of this tenancy and their applications for dispute resolution under the following final and binding terms of settlement:

1. The landlord agreed to send a negotiable cheque in the amount of \$440.04 to the tenants by 5:00 p.m. on March 3, 2014.
2. Both parties agreed that all monetary issues in dispute arising out of this tenancy and as outlined in both applications for dispute resolution are resolved by the landlord's payment of \$440.04 to the tenants.
3. Both parties agreed that the terms of this settlement agreement constituted a final and binding resolution of all issues in dispute in their applications for dispute resolution and arising out of this tenancy.

Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the tenants' favour in the amount of \$440.04. I deliver this Order to the tenants in support of the above agreement for use **only** in the event that the landlord does not abide by the terms of the above settlement. The tenants are provided with these Orders in the above terms and the landlord must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above

settlement agreement. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

To perfect this settlement agreement and as discussed at the hearing, I order the landlord to retain the remaining \$168.20 from the tenants' security deposit.

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: February 25, 2014

Residential Tenancy Branch

