



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

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

- a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38.

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 their security deposit pursuant to section 38; and
- authorization to recover their filing fee for this application from the landlord(s) 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 landlords' dispute resolution hearing package sent by the landlords by registered mail on November 8, 2013. The landlords confirmed that they received copies of the tenants' dispute resolution hearing package by registered mail on February 19, 2014. Both parties also confirmed that they had sent and received written evidence packages to and from one another. I am satisfied that the above documents were served to one another in accordance with the *Act* and that both parties confirmed that they were prepared to address all issues raised by the other party in their applications.

Issues(s) to be Decided

Are either of the parties entitled to monetary awards for losses or damages arising out of this tenancy? Which of the parties are entitled to the security deposit paid for this

tenancy? Are the tenants entitled to recover the filing fee for their application from the landlord(s)?

Background and Evidence

This fixed term tenancy began on February 15, 2013. It was scheduled to end on February 28, 2014. Monthly rent was set at \$1,250.00, payable in advance on the first of each month. The landlords continue to hold the tenants' \$625.00 security deposit paid on or about February 15, 2013.

The parties provided considerable written evidence regarding an October 22, 2013 flooding incident that occurred as a result of a problem with a toilet in this strata unit. Conflicting evidence was provided as to who was responsible for this flooding incident. However, the parties agreed that due to the severe damage caused by this flooding, the tenants vacated the rental unit shortly after the source of the flood was repaired. The tenants did not return to live in the rental unit after the flooding incident, but packed up their belongings and vacated the rental unit before October 31, 2013.

The landlords' application for a monetary award of \$11,000.00 included the following items:

Item	Amount
Compensation for Landlords' Deductible Amount on their Insurance Policy	\$5,000.00
Loss of Rent from November 2013 to February 2014 (4 months @ \$1,250.00 = \$5,000.00)	5,000.00
Cleaning, Painting and Repairs	1,000.00
Total Monetary Order Requested	\$11,000.00

The tenants applied for a monetary award of \$1,785.00. The female tenant testified that this amount was designed to provide them with a return of double the value of their security deposit and for three days of lost wages for her husband, Tenant AS, who had to take time off work to move their belongings to another location.

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 a settlement of all issues arising out of this tenancy under the following final and binding terms:

1. The tenants agreed to allow the landlord to retain their security deposit, plus all applicable interest.
2. Both parties agreed that the tenants' agreement to allow the landlords to retain their security deposit constituted a final and binding resolution of all issues monetary or otherwise arising out of this tenancy and furthermore agreed that they will not commence any new initiative of any kind against one another arising out of this tenancy.

Conclusion

To give effect to the settlement agreement reached between the parties, I order the landlords to retain the tenants' security deposit plus applicable interest. No interest is payable over the period of this tenancy.

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 24, 2014

Residential Tenancy Branch

