



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wildwood Ranch
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for a monetary order as against the landlords for double return of the security deposit and recovery of costs associated with service of documents.

The tenant and the named landlord attended the hearing, and the named landlord also acted as agent for the landlord company. The parties provided evidentiary material to the Residential Tenancy Branch and to each other. The parties gave affirmed testimony and were given the opportunity to cross examine each other on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlords for return of all or part or double the amount of the security deposit?

Background and Evidence

The tenant testified that the parties entered into a tenancy agreement in writing on February 4, 2014 for a tenancy to begin on February 15, 2014 on a month-to-month basis. A copy of the tenancy agreement has been provided by the landlord, and the tenant agrees that the document is a copy of the agreement signed by the parties. The agreement states that rent in the amount of \$550.00 per month is payable in advance on the 1st day of each month and a security deposit in the amount of \$275.00 was required. The tenant testified that the security deposit was paid on February 4, 2014 and has provided a copy of a receipt to substantiate that testimony. A move-in condition inspection report was completed on February 4, 2014 and a copy has also been provided by the landlord.

However, the tenant did not move into the rental unit and advised the landlord that she would not be moving in and requested a move-out condition inspection. The parties completed that right away.

The tenant sent to both the named landlord and to the landlord company a request for return of the security deposit on February 11, 2014 by registered mail and has provided a copy of each Canada Post receipt and registered mail tickets as evidence. The tenant testified that she kept a copy off the note but did not provide a copy for this hearing. The note contains the tenant's forwarding address and is dated February 9, 2014.

The landlord has not returned the security deposit and the tenant claims double, or \$550.00 and recovery of \$16.18 in service costs.

The landlord testified that the parties did the move-in condition inspection report on February 4, 2014 and the tenancy agreement was signed the same day. Thereafter, the tenant met the landlord on the street and the tenant told the landlord that she was not able to move into the rental unit because she had secured work in a different jurisdiction and insisted that the landlord attend to do the move-out condition inspection report immediately. The landlord had an appointment that could not be missed, but went to the rental unit immediately with the tenant and the parties conducted the move-out condition inspection report. Only the move-in portion of the report has been provided for this hearing.

The landlord also explained to the tenant that since the tenant had entered into a rental agreement with the landlord, the landlord had to find new renters and the security deposit would be returned if new renters were secured, and the tenant understood that. The parties did not agree to that in writing, but the landlord believed the parties had that agreement until the landlord was served with the Tenant's Application for Dispute Resolution.

Analysis

The *Residential Tenancy Act* states that a landlord must return a security deposit in full or make an application for dispute resolution claiming against it within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, unless the tenant has agreed in writing to the landlord retaining it. If the landlord does neither, the landlord must be ordered to repay the tenant double the amount.

In this case, the parties agree that the landlord collected a security deposit in the amount of \$275.00 on February 4, 2014. The parties also agree that a tenancy agreement was entered into and the tenant did not move into the rental unit. The landlord believed the tenant understood that return of the security deposit hinged on whether or not the rental unit was re-rented, but did not get that agreement in writing.

The tenant has provided evidence of having sent a request for return of it on February 11, 2014 to both landlords by registered mail. The landlord does not disagree that a forwarding address in writing was received, but did not testify as to the date. The *Act* provides that documents sent in that manner are deemed to have been served 5 days later, which I find is February 16, 2014. The landlords have not returned the deposit and have not made an application for dispute resolution claiming against it, and therefore, I find that the tenant is entitled to double recovery.

There is no provision in the *Act* for recovery of costs associated with service of documents, and that portion of the tenant's claim is hereby dismissed.

I hereby grant a monetary order in favour of the tenant as against the landlords in the amount of \$550.00.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$550.00.

This order is final and binding and may be enforced.

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: April 30, 2014

Residential Tenancy Branch

