



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Norman Estates
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, FF, O

Introduction

This hearing dealt with an application by the tenant seeking an order for the return of double the security deposit. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issue to be Decided

Are the tenants entitled to the return of double the security deposit?

Background & Evidence

The tenants' agent gave the following testimony:

The tenancy began on September 1, 2012 and ended on August 31, 2013. The tenants were obligated to pay \$1500.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$750.00 security deposit. The tenants' agent stated that she doesn't know when the tenants gave their forwarding address but was "assuming they did" and that "I'm pretty sure they gave it writing".

The landlords' agent gave the following testimony:

The landlords' agent stated that the tenants did not provide proper notice that they would be moving out. The tenants provided written notice to move out on August 5, 2013 for a vacancy date of September 1, 2013. The landlords agent stated that the tenants did not complete vacate the unit until the second week of September 2013. The landlords' agent stated the tenants did not participate in the Condition Inspection at move out. The landlords' agent stated that the tenants have not provided their forwarding address in writing or otherwise. The landlords' agent stated the tenants finally vacated the suite without informing anyone. The landlords' agent stated that he

only became aware of this hearing yesterday and was not provided any notice from the tenant.

Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the tenants must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The tenants' agents' testimony was less than compelling. She stated several times that "I really don't know but I'm pretty sure they did what they had to". She also stated "I assume they provided it in writing". The tenants' agent made assumptions without any firsthand knowledge. In addition, the tenants' agent did not dispute that the tenants chose not to participate in the move out condition inspection. Section 36 of the Act clearly states that if a party does not participate at the move out condition inspection they extinguish their right to make any claim towards the deposit. Based on the above, I must dismiss the tenants' application in its entirety.

Conclusion

The tenant's application is dismissed.

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 03, 2014

Residential Tenancy Branch

