



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing dealt with the tenant's application for recovery of the security deposit. The tenant, the landlord and the landlord's agent participated in the teleconference hearing.

The landlord confirmed that they received the tenant's application and evidence. The tenant stated that he did not receive the landlord's evidence, but he did receive a pick-up notice from Canada Post. I found that the landlord complied with the service requirements under the Act, and the tenant was therefore deemed to have been served with the landlord's evidence.

The parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to recovery of the security deposit?

Background and Evidence

The tenancy began in April 2011. At the outset of the tenancy the tenant paid the landlord a security deposit of \$700.

On March 29, 2013 the landlord and the tenant signed an agreement to "establish terms for the termination of residential tenancy." This agreement set out terms including the following:

- Hold over will continue on a per diem rate of \$45.00 per day (minimum 10 days) to a maximum of 15 days terminating no later than 12:00 noon April 15, 2013.

- Deduction from damage deposit
 - a. Wall repairs as per attach sheet \$255.00
 - b. 10 day min / per diem rate \$450

The tenant himself vacated the rental unit at the end of March 2013, and with the landlord's knowledge a house-sitter occupied the unit from approximately the end of March 2013 to approximately April 12, 2013.

On May 8, 2013 the landlord sent the tenant a cheque for \$20, and indicated that they had retained the remainder of the deposit as per their agreement, after calculating the security deposit plus interest at \$725, and deducting \$255 for wall repairs and \$450 for the minimum per diem rate.

Tenant's Evidence

The tenant submitted that the written agreement was contingent on the circumstances, and because not all of the terms were fulfilled, the landlord no longer had the tenant's written consent to retain the security deposit. The tenant's house-sitter did not stay until April 15, 2013. The tenant stated that he could not recall when he gave the landlord his forwarding address.

Landlord's Evidence

The landlord stated that they gave the tenant a very decent concession on the repair costs for the wall, and the house-sitter stayed until April 12, 2013. The landlord stated that they did not receive a forwarding address from the tenant until it was provided in a previous application.

Analysis

I find that the written agreement between the landlord and the tenant dated March 29, 2013 constitutes the tenant's clear written authority to allow the landlord to retain \$705, or the full amount of the security deposit. The landlord therefore withheld the deposit in accordance with the Act. In regard to the house-sitter's occupation of the unit, the landlord only deducted for 10 days of occupation rather than 12. The landlord returned \$20 although under the *Residential Tenancy Act* no interest had accumulated. The tenant's application is therefore dismissed.

As the tenant's application was not successful, he is not entitled to recovery of the filing fee for the cost of his application.

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: June 3, 2014

Residential Tenancy Branch

