



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF, MND, MNDC, MNR, O

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord(s). Both files were heard together.

The tenant's application is a request for a monetary order for \$1500.00, and recovery of the \$50.00 filing fee.

Landlord's application is a request for a Monetary Order for \$1447.39, and recovery of the \$50.00 filing fee.

A substantial amount of documentary evidence, photo evidence, digital evidence, and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

Have the tenants established a claim for return of double their security deposit and recovery of their filing fee?

Have the landlords established a monetary claim against the tenants in the amount of \$1447.39?

Tenants Application

Background and Evidence

This tenancy began on October 15, 2013, and on that date a combined security/pet deposit of \$700.00 was paid.

The landlords did not produce a move in inspection report as required under the Residential Tenancy Act.

This tenancy ended on February 28, 2014.

To date the landlords have not returned the tenants security deposit.

Analysis

The Residential Tenancy Act states that, if the landlord does not either return the security deposit, get the tenants written permission to keep all or part of the security deposit, or apply for dispute resolution within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant double the amount of security deposit.

The landlord has not returned the tenants security deposit or applied for dispute resolution to keep any or all of tenant's security deposit and the time limit in which to apply is now past.

This tenancy ended on February 28, 2014 and the landlords have admitted that they had a forwarding address in writing by the end of the tenancy, and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore the landlord must pay double the \$700.00 amount of the security/pet deposit to the tenants, for a total of \$1400.00.

I also allow the tenants request for recovery of their \$50.00 filing fee.

Landlords application

Background and evidence

- The tenants withheld \$138.00 from their final month rent without any authorization to do so.
- When the tenants moved into the rental unit it was in very good condition, however when the tenants vacated they left the rental unit extremely dirty, with an extensive amount of junk left behind, and with damages to the rental unit.
- As a result they had to spend a significant amount of time cleaning and repairing the unit at a total cost of cleaning, repairs, and garbage removal of \$1163.00.
- They also had to travel three hours in each direction to work on the rental unit and are therefore asking for a total of \$146.58 in fuel costs.

They therefore request an order of \$1447.39 and recovery of their \$50.00 filing fee, for a total of \$1497.39.

The tenants testified that:

- They did withhold \$138.00 from the last month's rent; however this was to cover the cost of plumbing bill to deal with frozen pipes, and a portion of the cost of rat poison that the landlords had agreed to pay.
- The landlords did not do a move in inspection report at the beginning of the tenancy because the rental unit was left in a very dirty condition.
- At the end of the tenancy they left the rental unit as clean as they had found it at the beginning of the tenancy.
- They admit that they didn't clean the rental unit at the end, however since they had not received it clean they do not believe they are liable for any cleaning costs.
- They did not cause any damages to the rental unit, and the items the landlord claims were left behind by them were not their items.
- They therefore dispute this full claim.

In response to the tenant's testimony the landlords testified that:

- They did agree to pay for rat poison, and in fact did pay for the rat poison, however the tenants also bought an electronic device which they did not agree to pay for.
- They also do not agree to pay for the plumbing bill, as the plumber found that the pipes were frozen because the tenants left the basement door ajar in subzero temperatures.

- The rental unit was not in dirty condition when they received it at the beginning of the tenancy, it had been thoroughly cleaned and one of the carpets was even brand-new.
- The tenants did leave a large number of belongings behind and these items were not there at the beginning of the tenancy.

The Analysis

It is my finding, based on the balance of probabilities, that the tenants did leave the rental unit in need of significant cleaning and repairs, and did leave a large amount of garbage behind.

The landlords have provided substantial photo and video evidence that clearly shows that this rental unit was left in very poor condition at the end of the tenancy.

I do not accept the tenant's claims that the rental unit was left in the same condition as they received it at the beginning of the tenancy, as I find it very unlikely that the tenants would have accepted a rental unit in such deplorable condition.

Further it is also my finding that the tenants did not have the right to withhold any money from the final month rent without first getting the landlords permission to do so and in this case they failed to do that.

I therefore allow the majority of the landlords claim.

I will allow the landlords claim for \$138.00 for outstanding rent.

I will allow the landlords claim for \$1163.00 for cleaning, repairs, and garbage removal.

I will not however allow the landlords claim for fuel to travel to the rental unit as this is a cost of doing business for an absentee landlord that cannot be passed on to the tenants.

Therefore the total amount of the landlord's claim that I have allowed is \$1301.00 and I also allow recovery of the \$50.00 filing fee for a total order of \$1351.00.

Conclusion

I have allowed \$1450.00 of the tenants claim, and I have allowed \$1351.00 of the landlords claim, and I have therefore set off the amount awarded to the landlords

against the amount awarded to the tenants and I've issued a Monetary Order for the landlord's to pay the difference of \$99.00 to the tenants.

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: July 17, 2014

Residential Tenancy Branch

