



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

TENANT: MNDC, MNSD, O
LANDLORD: MNR, MNSD, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenants.

The Landlords filed seeking a monetary order for unpaid rent, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Tenants filed seeking a monetary order for compensation for damage or loss under the Act, the regulations or the tenancy agreement, for the return of the Tenants' security deposit and for other considerations.

Service of the hearing documents by the Landlords to the Tenants were done by registered mail on July 7, 2014, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenants to the Landlords were done by registered mail on June 27, 2014 in accordance with section 89 of the Act.

The Tenant and the Landlord confirmed that they had received the other party's hearing packages.

Issues to be Decided

Landlord:

1. Is there unpaid rent and if so how much?
2. Are the Landlords entitled to unpaid rent and if so how much?
3. Are the Landlords entitled to retain the Tenants' security deposit?

Tenant:

1. Are there damages or losses to the Tenants and if so how much?
2. Are the Tenants entitled to compensation for loss or damage and if so how much?
3. Are the Tenants entitled to the return of the security deposit?
4. What other considerations are there?

Background and Evidence

This tenancy started on March 10, 2014. The Tenant said the tenancy was for a fixed term of 1 year and the Landlord said the tenancy was on a month to month basis. Rent was \$950.00 per month payable in advance of the 1st day of each month. The Tenants paid a security deposit of \$475.00 on March 7, 2014. The tenancy ended on May 30, 2014 by mutual agreement and the Tenants gave the Landlord their forwarding address on June 4, 2014.

The Tenant said the Landlord gave him a letter on April 7, 2014 ending the tenancy on May 7, 2014. Following this the Tenant had a conference call meeting with the Landlord towards the end of April, 2014 in which the Landlord and Tenant agreed to end the tenancy on May 30, 2014. As well they agreed that the Tenant would not pay the May, 2014 rent and the Landlord would return the Tenants' security deposit. The Tenant provided a signed witness letter that confirms this information. The Landlord said the information from that conference call meeting is correct and there is no unpaid rent. The Landlord continued to say they have not returned the Tenants' security deposit of \$475.00. As the Landlords' application is for unpaid rent of \$950.00 for the month of May, 2014 and because the Landlord said the rent for May, 2014 was forgiven to the Tenants for moving out, the Landlords' application is redundant and has no merit.

The Tenant continued to say that he has applied for the return of double his security deposit of \$475.00 ($2 \times \$475.00 = \950.00), damages of \$475.00 for the inconvenience of moving and his moving costs of \$216.24. The Tenant said his total claim is for \$1,641.24.

The Tenant said in closing that he did not like the way he was treated by the Landlord and the Landlord should not treat any tenants and especially new immigrants the way the Landlord treated him. The Tenant said his application is not so much about the money but because he was treated badly.

The Landlord offered the Tenant the return of the Tenants' security deposit of \$475.00 as full settlement of this dispute. The Tenant declined the Landlord's offer and requested a decision to resolve this dispute.

The Landlord said in closing there were problems with the Tenants making noise and causing a disturbance in the rental complex. As a result the Landlord said it was best to make an agreement to end the tenancy, which they did and he does not believe he should have to pay any more money to the Tenant.

The Tenant said in closing that he feels that he was treated very badly and the Landlord should pay him something as compensation for his poor treatment.

Analysis

Sections 24 and 36 of the Act say if a landlord does not complete a move in and move out condition inspection report the landlord's right to claim against the tenants security or pet deposit is extinguished. I find the Landlord did not complete a move in or move out condition inspection report therefore the Landlord's claim against the Tenants' security deposit for damage is extinguished. As a result of not completing the reports and the Landlord agreeing to

a mutual agreement to end the tenancy which forgave the May, 2014 rent of \$950.00 to the Tenant, I dismiss the Landlord's request to retain the Tenants' security deposit as partial payment for the May, 2014 rent of \$950.00. Further as there is no unpaid rent I dismiss the Landlords' application without leave to reapply.

With respect to the Tenants' application for double their security deposit in the amount of 2 X \$475.00 = \$950.00.

Section 38 (1) of the Act says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and
- (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find from the Tenants' testimony and written evidence that they did give the Landlord a forwarding address in writing on June 4, 2014. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or after receiving a forwarding address in writing from the Tenant, nor did the Landlord apply for dispute resolution by June 19, 2014 to retain the Tenants' security deposit. Consequently I find for the Tenants and grant an order for double the security deposit of \$475.00 in the amount of \$950.00.

With respect to the Tenants claim for \$216.24 for moving costs and \$475.00 for the inconvenience of moving, I find that because of the mutual agreement to end the tenancy and the compensation for the May, 2014 rent of \$475.00 that the Tenant received, the Tenants have

not established grounds for additional compensation. Both parties agreed to end the tenancy therefore the Tenants are responsible for all their moving costs and the inconvenience of having to move.

A monetary order has been issued to the Tenants for the following:

Double Security deposit	\$ 950.00
Total	\$ 950.00

Conclusion

A monetary order has been issued to the Tenants' for \$950.00.

The Landlords application is dismissed without leave to reapply.

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: October 27, 2014

Residential Tenancy Branch

