



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MDSD & FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing filed by the tenants on December 23, 2014 was served on the landlord in person on February 4, 2015. I find that the Application for Dispute Resolution filed by the landlord was sufficiently served on the tenants by mailing, by registered mail to where the tenants reside on February 11, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to a monetary order and if so how much?
- b. Whether the tenants are entitled to recover the cost of the filing fee?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to A Monetary Order and if so how much?
- e. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- f. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

On September 5, 2014 the parties had a discussion about renting the rental unit. On September 6, 2014 the tenant paid the landlord a security deposit of \$400 with the understanding the tenants would sign the tenancy agreement and move into the rental unit on September 8, 2014. On September 8, 2014 the tenants advised they had found alternative accommodation and would not be moving in.

The landlord testified that on September 5, 2014 she told the tenants she would rent the rental unit to the tenants on the condition that they do not move in furniture that had been left a housing project that was experiencing a serious bedbug problem. She testified the tenants thought about it and returned the next day to pay the security deposit. The tenants dispute this evidence. They testified the requirement that they could not move in the furniture occurred only after they had paid the security deposit.

The landlord claims the sum of \$669 for the loss of rent from September 8, 2014 to September 30, 2014. The tenants claim \$800 for double the security deposit. However, the tenant did not give the landlord their forwarding address.

Settlement:

At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The landlord shall pay the tenants the sum of \$150 and shall retain the balance of the security deposit in the sum of \$250.
- b. This is a full and final settlement and each party releases and discharges the other from all further claims with respect to this tenancy.

Analysis - Monetary Order and Cost of Filing fee

As a result of the settlement I ordered that the landlord pay to the tenant the sum of \$150. I further ordered that the landlord shall retain the balance of the security deposit in the sum of \$250.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: March 12, 2015

Residential Tenancy Branch

