



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HK Pacific Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MND, FF, MNDC

Introduction

This hearing dealt with cross applications. The landlord is seeking a monetary order to withhold some of the security deposit and the recovery of the filing fee. The tenant has filed an application seeking the return of double the security deposit and the recovery of the filing fee. Both parties participated in the conference call hearing. Both parties confirmed that they had exchanged evidence and were made aware of each other's claim in accordance with Section 89 of the Act. Both parties gave affirmed evidence.

Issue to be Decided

Is either party entitled to a monetary order as claimed?

Background, Evidence and Analysis

The landlord's testimony is as follows. The tenancy began on September 1, 2013 and ended on August 31, 2014. The tenants were obligated to pay \$775.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$375.00 security deposit. The landlord stated that move in and move out condition inspection reports were conducted.

I address the landlord's claims and my findings around each as follows.

Landlords First Claim – The landlord was seeking \$46.47 for unpaid utility costs. The landlord advised that amount has been paid and no longer seeks to pursue that claim. Based on the above, I dismiss that portion of the landlords' application.

Landlords Second Claim – The landlord is seeking \$68.25 for carpet cleaning. The landlord stated that she agrees that the tenant did shampoo the carpet but does not feel it was done to a satisfactory level.

The tenant disputes this claim. The tenant stated that the carpet was 50 years old. The tenants' agent stated that there had been mould issues in this unit throughout the tenancy that were never fully addressed. The tenants' agent submitted a receipt to support his claim that the carpets were cleaned.

I accept the evidence of the tenant. The landlord did not dispute that there was some mould issues with the carpet or the extreme age of the carpet. I find that the tenant fulfilled his obligation in accordance with the Act to shampoo the carpets at the end of tenancy. Based on the above and on the balance of probabilities I dismiss this portion of the landlords' application.

The landlord has not been successful in their application. I dismiss the landlords' application in it's entirety.

I address the tenants' claims and my findings as follows.

Tenants Claim – The tenant stated that they are seeking the return of double the security deposit. The tenant stated although the landlord filed for dispute resolution within fifteen days of receiving the tenants forwarding address, the tenant is still entitled to the return of double the security deposit as the condition inspection report is deficient. The tenant stated that the landlords' inspection form is missing some key items required under the Act such as an area for the tenant to indicate that they disagree with the condition of the unit or any deductions from the deposit. The tenant stated that due to these omissions the landlord should return double the security deposit.

The landlord disputes this claim. The landlord stated that they filed within 15 days of receiving the tenants forwarding address as required by the Act.

The tenancy ended on August 31, 2014 at which time the tenant provided their forwarding address in writing. The landlord filed for dispute resolution on September 9, 2014.

Section 38 (1) 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.

As the landlord has acted in accordance with the Act and within the legislated timeline, the tenant is not entitled to the return of double the security deposit but is entitled to the original amount of \$375.00.

The tenant is also entitled to the recovery of the \$50.00 filing fee.

Conclusion

The landlords' application is dismissed in its entirety.

The tenant has established a claim for \$425.00. I grant the tenant an order under section 67 for the balance due of \$425.00. This order may be filed in the Small Claims 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 31, 2015

Residential Tenancy Branch

