



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for a monetary order for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and each gave affirmed testimony. The tenant also provided evidentiary material prior to the commencement of the hearing. The parties were given the opportunity to question each other respecting the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?

Background and Evidence

The tenant testified that this month-to-month tenancy began on November 1, 2009 and ended on April 2, 2014. Rent in the amount of \$600.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant and another tenant totalling \$300.00, which is still held in trust by the landlord and no pet damage deposit was collected. The tenant repaid the other tenant, and now claims the security deposit from the landlord. A copy of the tenancy agreement has been provided.

The tenant further testified that no move-in or move-out condition inspection reports were completed at the beginning or end of the tenancy.

The tenant also testified that he wrote a note to the landlord that contained the tenant's forwarding address and the tenant's son personally gave it to the landlord on January 15, 2015. The tenant's son knows the landlord and told the tenant that he had a conversation with the landlord who asked where the tenant was. The tenant's son told the landlord that the tenant was sick.

The landlord has not returned any portion of the security deposit to the tenant.

The landlord testified that damage to the rental unit had occurred about a year prior to the end of the tenancy. There was a major water leak in the bathroom, and the tenant contacted the landlord about it at around 1:00 p.m. and said that the leak started about 10:00 .m. the evening before. The landlord attended and hot water was spewing; it was a major leak. The landlord turned off the valve which turned off the water. Water ran for about 15 hours. The landlord lives across the street and was home but the tenant didn't notify the landlord. Then the landlord put in a fan and asked the tenant a few days later how things were going. The tenant said that the fan wasn't working and the landlord found it in the bedroom, not the bathroom where it had been placed. This incident was not the only time there were water issues.

The landlord has not made an application for dispute resolution.

Analysis

The *Residential Tenancy Act* is clear that a landlord has 15 days from the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to repay to the tenant the full amount of the security deposit and pet damage deposit or apply for dispute resolution claiming against the deposits. Further, the landlord's right to make a claim for damages against the deposits is extinguished if the landlord does not ensure that move-in and move-out condition inspection reports are completed. A landlord may not hold onto a security deposit or pet damage deposit without making some claim against the deposits. The *Act* also states that if a landlord does not return the deposits or make an application for dispute resolution claiming against them within that 15 day period, the landlord must repay the tenant double the amount.

In this case, the tenant testified that the landlord was given a note by the tenant's son on January 15, 2015 that contained the tenant's forwarding address in writing. The landlord was given plenty of opportunity but did not question the tenant about that nor

did the landlord dispute that testimony. Therefore, I am satisfied that the landlord received the tenant's forwarding address in writing on January 15, 2015. The parties also agree that the tenancy ended at the beginning of April, 2014. I find that the landlord had until January 30, 2015 to make a claim or return the security deposit to the tenant. The landlord has not done either, and therefore I find that the tenant has established a claim for double the amount, or \$600.00.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$650.00.

This order is final and binding and may be enforced.

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: April 02, 2015

Residential Tenancy Branch

