



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes : FF, MNSD & O

Introduction

A hearing was conducted by conference call in the presence of the applicants and in the absence of the respondents although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the respondents by mailing, by registered mail to where they reside on March 20, 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 landlords are entitled to retain all or a portion of the security deposit/pet deposit?
- b. Whether the landlords are entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on June 1, 2012 and ended on June 1, 2014. The tenancy agreement provided that the tenant(s) would pay rent of \$1050 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$525 at the start of the tenancy.

In a decision that was rendered on March 5, 2015 the tenants' application for an order for double the deposit was dismissed with leave to reapply and the landlord was

ordered to return the deposit or commence an Application for the return of the deposit within 15 days after the Decision is deemed received by the landlords.

Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Based on the evidence presented at the hearing I determined the tenants have caused damage to the rental unit totaling \$1977.47 particulars are as follows:

- a. The cost of carpet cleaning in the sum of \$448.35;
- b. The cost to replace blind in the sum of \$71.62 and \$21.28.
- c. The cost to remove markings from the fridge in the sum of \$210.35.
- d. The cost to repair holes in the wall and painting of the rental unit totaling \$1208.70
- e. The cost to replace broken light switches and plug ins in the sum of \$17.17.

The damages exceed the security deposit. However, the Application for Dispute Resolution filed by the landlord seeks to recover the security deposit of \$525 and the cost of the filing fee only. I determined the award of damages is limited to the amount claimed in the Application for Dispute Resolution.

Section 72 of the Residential Tenancy Act provides as follows:

Director's orders: fees and monetary orders

72 (2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

...

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Security Deposit and Cost of Filing fee:

As a result I ordered that the landlords shall retain the security deposit. I further order that the tenants pay to the landlords the sum of \$50 for the cost of the filing fee.

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: July 10, 2015

Residential Tenancy Branch

