



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OLC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants for a monetary order for return of all or part of the pet damage deposit or security deposit; for an order that the landlord comply with the *Act*, regulation or tenancy agreement, and to recover the filing fee from the landlord for the cost of the application.

The landlord and one of the tenants attended the hearing, and the tenant also represented the other named tenant. The parties each gave affirmed testimony and were given the opportunity to question each other with respect to the evidence and testimony provided.

The landlord provided evidentiary material that was not relevant to this hearing and I ordered that the material be returned to the landlord. No further issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

- Have the tenants established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?
- Have the tenants established that the landlord should be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically with respect to security deposits?

Background and Evidence

The tenant testified that this fixed term tenancy began on May 1, 2013 and was to expire on April 30, 2015 however the tenants moved out of the rental unit on March 31, 2015. Rent in the amount of \$1,500.00 per month was payable on the 1st day of each month and there are no rental arrears. On January 20, 2013 the landlord collected a

security deposit from the tenants in the amount of \$750.00 which is still held in trust by the landlord and no pet damage deposit was collected. A copy of the tenancy agreement and a copy of a receipt for the security deposit payment have been provided.

The tenant further testified that the tenants provided a forwarding address in writing on March 31, 2015 in a letter which was sent to the landlord by registered mail that day.

A move-in condition inspection report was not completed by the parties at the commencement of the tenancy, but a move-out condition inspection report was completed at the end of the tenancy. All sections in the report are marked "good" and the tenants have provided photographs which were taken on March 25 and 30, 2015. The tenant showed the photographs to the landlord on March 30, 2015 just prior to the move-out condition inspection. The tenant asked for a cheque for return of the deposit post-dated for 15 days, but the landlord said she didn't have the money.

The landlord has not returned the security deposit and has not served the tenants with an Application for Dispute Resolution claiming against the deposit, and the tenants seek double, or \$1,500.00 in addition to recovery of the \$50.00 filing fee.

The landlord testified that she kept the security deposit because of items missing from the rental unit and damages left by the tenants. The landlord moved into the rental unit on May 1, 2015.

The landlord further testified that a move-in condition inspection report was completed at the beginning of the tenancy but the landlord does not have a copy. At the end of the tenancy the tenant suggested doing the move-out condition inspection report, and he filled out the form. The landlord is a small woman and the tenant is 200 pounds and over 6 feet tall and attended with another man, causing the landlord to be intimidated.

The landlord denies receiving the tenants' forwarding address by registered mail, but testified that they left it in the mail box which was found in May.

The landlord did not know that she had to make an application for dispute resolution to keep the security deposit and believed she could dispute the tenants' claim for return of it at this hearing.

Analysis

The *Residential Tenancy Act* requires a landlord to return a security deposit in full to a tenant or make an application for dispute resolution claiming against the security deposit within 15 days of the later of the date the tenancy ends or the date the landlord

receives the tenant's forwarding address in writing. If the landlord fails to do either, the landlord must repay the tenant double.

In this case, I am satisfied that the tenancy ended on March 31, 2015. The tenant testified that the landlord was provided with a forwarding address of the tenant in a letter sent by registered mail on March 31, 2015, however the landlord testified that the note was left in a mail box which the landlord didn't receive until sometime in May. The tenant has not provided any evidence to the contrary and the tenant's application for dispute resolution was filed on April 22, 2015. The *Act* specifically states that the 15 days starts from the date the landlord receives the tenant's forwarding address in writing, and therefore I find that as of the date of filing, the tenants had not established that the tenants were entitled to double. However, it is clear that the landlord did not make the application for dispute resolution within 15 days, and therefore the tenants are entitled to double the amount.

Since the tenants have been successful with the application the tenants are 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 tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,550.00.

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: September 28, 2015

Residential Tenancy Branch

