



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNSD, MNDC

Introduction

This is an application brought by the tenant requesting a monetary order in the amount of \$1950.00 and recovery of the \$50.00 filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

The parties were affirmed.

Issue(s) to be Decided

The issue is whether or not tenant has the right to an order for return of double his security/pet deposit and recovery of his filing fee.

Background and Evidence

This tenancy began on March 15, 2013 and at that time a security deposit of \$775.00 and the pet deposit of \$200.00 were paid for a total of \$975.00.

This tenancy ended on February 8, 2015 and the landlord received a forwarding address in writing on February 8, 2015.

The tenant testified that he has never given the landlord any written permission to keep any or all of his security/pet deposit and therefore, since the time limit to return the

deposit is now well past, he is requesting an order that the landlord pay double the security and pet deposits.

The landlord testified that it is his belief that the tenant had given him written permission by text on September 20, 2014 to keep the deposit, when they were discussing the cost of replacing a stovetop that was damaged during the tenancy.

The landlord further testified that in previous discussions with the tenant he had agreed to accept one half the cost of replacing the stovetop if the tenant made a payment at that time, however that payment was never forthcoming and therefore at the end of the tenancy he kept the full cost of replacing the stovetop from the security/pet deposit.

In response to the landlords testimony the tenant testified that at the time of the damage he had suggested to the landlord that the landlord keep the cost of repair from the security deposit, however the landlord did not agree to that and requested payment.

The tenant further reiterated that no written permission was ever given to the landlord at the end of the tenancy to keep any or all of the security/pet deposit.

Analysis

Section 38 of the Residential Tenancy Act states that, if the landlord does not either return the security/pet deposit, get the tenants written permission, at the end of the tenancy, to keep all or part of the security/pet deposit, or apply for dispute resolution within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant double the amount of security/pet deposit.

The landlord has argued that the tenant gave him permission by text on September 20, 2014 to keep the security deposit towards damages caused by the tenant; however it is my finding that, although there were discussions by text over using the security deposit to cover the cost of the damages, nothing was ever finalized and it's my decision that this cannot be considered permission to keep the security/pet deposit at the end of the tenancy.

The landlord has not returned the tenants full security/pet deposit or applied for dispute resolution to keep any or all of tenant's security/pet deposit and the time limit in which to apply is now past.

This tenancy ended on February 8, 2015 and the landlord admitted at the hearing, that he had a forwarding address in writing by February 8, 2015, and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore the landlord must pay double the amount of the security/pet deposit to the tenant.

The tenant paid a combined security/pet deposit of \$975.00, and therefore the landlord must pay \$1950.00 to the tenant.

I also allow the tenants request for recovery of the \$50.00 filing fee.

Conclusion

I have issued an Order for the respondent/landlord to pay \$2000.00 to the applicant/tenant.

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: October 13, 2015

Residential Tenancy Branch

