



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, 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 a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlords for the cost of the application.

Both tenants and both landlords attended the hearing, and one of the tenants and one of the landlords each gave affirmed testimony. The parties were given the opportunity to discuss settlement of this dispute, and 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

- Have the tenants established a monetary claim as against the landlords for return of all or part of the security deposit?
- Have the tenants established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for double the amount of the security deposit?

Background and Evidence

The tenant testified that this fixed-term tenancy began on January 1, 2014, expired and was extended in the same terms to an end date of August 31, 2015 which is when the tenancy ended. Rent in the amount of \$1,275.00 per month was payable on the 1st day

of each month and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$637.50, and no pet damage deposit was collected. The tenants have provided a copy of the extension to the original tenancy agreement, but not the original tenancy agreement which sets out the terms of the tenancy. The rental unit is a strata condominium.

The tenant further testified that a move-in condition inspection report was completed at the beginning of the tenancy, and a move-out condition inspection report was completed at the end of the tenancy, on August 31, 2015. One of the landlords was present for the move-out portion, which was completed by an agent of the landlord, who wrote the tenants' forwarding address on the report. The tenant agreed to a deduction for carpet cleaning on that form, and was aware of a \$100.00 move-out fee, but not any other deductions.

The tenants waited for return of the security deposit and received an email from the landlords on September 29, 2015 which listed deductions from the security deposit. The tenancy agreement requires a move-in and a move-out fee, which is a strata rule for a security officer to be present to guard the open parkade for the complex. The tenants paid \$100.00 at move-in and the landlord's email indicated that the deduction at move-out had been raised to \$125.00. The tenant replied to the email seeking information or proof of the raised cost but never heard back from the landlords.

On October 8, 2015 the tenants received a cheque from the landlords in the amount of \$422.73.

After the tenants had moved in, they found out that the previous tenants were still living in the building and have access to the building and parkade. The tenant asked the landlords to change the locks when they completed the first inspection and the landlords agreed, but wanted to remove the lock to the rental unit and storage locker, take them to a locksmith for rekeying and return them, leaving no locks at all in the interim. The tenants didn't feel that was very safe so they asked if they could do it themselves. The landlords agreed as long as the tenants paid half the cost. The tenants paid the locksmith cash, gave copies of the keys to the landlords, and the landlords took the invoice and gave the tenants \$50.00. The tenants no longer have a copy of the invoice, despite requests to the landlords to provide it. The tenant found out later that changing locks is a landlord's responsibility and the tenants claim the other \$50.00 back from the landlords, although the tenant does not recall the exact amount.

The tenants seek double the amount of the security deposit, recovery of the \$25.00 over-charge for the move-out fee, \$50.00 for changing the locks, \$30.25 for the cost of sending registered mail to the landlords, and recovery of the \$50.00 filing fee.

The landlord testified that the landlords do not reside in the same community as the rental unit and have retained the services of a rental agent. The agent has not been very professional or respectful to the landlords or to the tenants and the landlord feels that's been a big part of the problem with miscommunication between the landlords and the tenants.

The tenants had requested a Sunday to move out and the strata president told the landlord that the cost on a Sunday for the security company would be \$300.00, and that the standard cost had risen to \$125.00. The landlord's agent told the landlords that the tenancy agreement said the cost was \$100.00 or if the strata raised it, the tenant would be responsible for the increased amount. As it turned out, the landlords were actually charged \$145.00 by the strata council and only charged the tenants \$125.00.

At move-out, the landlord's wife was present.

The landlord also testified that he has no recollection about what was agreed upon with respect to locks. It's been 18 months and the tenants haven't asked for reimbursement. The landlord offered the tenants \$422.00 and the tenant wrote back saying they wanted more each time.

Analysis

The *Residential Tenancy Act* states that a landlord has 15 days from the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, whichever is later, to return the security deposit in full or apply for dispute resolution to keep it, or a portion of it. A landlord may keep any portion that the tenant agrees to in writing. If the landlord fails to do either, the landlord must repay the tenant double the amount.

In this case, the tenancy ended on August 31, 2015 and the landlords, through their agent, received the tenants' forwarding address that day, which was written on the move-out condition inspection report. The tenant agreed to a deduction of \$89.77 for carpet cleaning and \$100.00 for the move-out fee. The parties agree that the security deposit amount was \$637.50, and less those deductions is \$447.73. I find that that amount is the amount held in trust by the landlords as that is the amount the landlords were obligated to return to the tenants within 15 days. I further find that the tenants are entitled to double that amount, or \$895.46, less the \$422.73 paid by the landlords on October 8, 2015, which equals \$472.73 due to the tenants.

With respect to the cost of locks, the onus is on the tenants to establish the amount payable. The tenant testified that the tenants were unsuccessful in obtaining a copy of

the invoice after it was given to the landlords, however the tenants may also have obtained an additional copy from the locksmiths. The tenant testified that the landlords gave the tenants \$50.00, and absent any evidence or a specified amount, I cannot order the landlords to provide more compensation.

The *Residential Tenancy Act* provides for recovery of a filing fee in dispute resolution proceedings, but not the cost of serving documents, and therefore the tenants' claim of \$30.25 is dismissed.

Since the tenants have been partially 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 landlords pursuant to section 67 of the *Residential Tenancy Act* in the amount of \$522.73.

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: November 27, 2015

Residential Tenancy Branch

