



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This is an application brought by the tenant(s) requesting a Monetary Order in the amount of \$930.00 and recovery of their \$50.00 filing fee.

Some documentary evidence and written arguments have 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.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicants have established a monetary claim against the respondent, and if so in what amount.

Background and Evidence

The tenants paid a security deposit of \$440.00 on May 8, 2011 and this tenancy began on June 1, 2011.

The tenancy ended on May 28, 2014 and the tenants provided the landlord with a forwarding address in writing on the move out inspection report.

The tenants did not sign the move out inspection report although they participated in the inspection.

The tenants are requesting an Order for the landlord to pay double their security deposit for total of \$880.00 stating that the landlord has not returned the deposit and the time limit in which to do so as well past.

The tenants are also requesting to be reimbursed for costs they incurred preparing for a hearing brought by the landlord that was subsequently canceled by the landlord.

The landlord testified that he has not returned the tenant security deposit, however the tenants were aware of the damages in the rental unit at the end of the tenancy as they were listed on the move out inspection report, and further the tenants failed to fully participate in the move out inspection as they did not sign the report.

Analysis

First of all, I will not allow the tenants claim for costs incurred preparing for hearing as this is a cost of the dispute resolution process and I do not have the authority to award costs.

As far as the security deposit is concerned however Section 38 of the Residential Tenancy Act states that, if the landlord does not either return the security 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 deposit.

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

This tenancy ended on July 28, 2014 and the landlord had a forwarding address in writing by July 28, 2014 and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

The landlord argued that the tenants did not fully participate in the move out inspection as they failed to sign the report, however I reviewed the copy of the move out inspection report and it did not have all the required information.

Section 20(1)(k) of the Residential Tenancy Regulations states that the report must include:

(k) the following statement, to be completed by the tenant:

I,

Tenant's name

☐ agree that this report fairly represents the condition of the rental unit.

☐ do not agree that this report fairly represents the condition of the rental unit, for the following reasons:

Neither the move-in inspection report nor the move out inspection report included the above.

Further, Section 20(2) of the Residential Tenancy Regulations states:

(2) In addition to the information referred to in subsection (1), a condition inspection report completed under section 35 of the Act [*condition inspection: end of tenancy*] must contain the following items in a manner that makes them clearly distinguishable from other information in the report:

(a) a statement itemizing any damage to the rental unit or residential property for which the tenant is responsible;

(b) if agreed upon by the landlord and tenant,

(i) the amount to be deducted from the tenant's security deposit or pet damage deposit,

(ii) the tenant's signature indicating agreement with the deduction, and

(iii) the date on which the tenant signed.

The move out inspection report did not have a statement itemizing any damage to the rental unit for which the tenant was responsible.

Therefore it is my finding that the tenants did not fail to participate in the move out inspection report by refusing to sign a document that was not in the form required under the Residential Tenancy Regulations.

Therefore it is my decision that the landlord must pay double the amount of the security deposit to the tenant.

The tenants paid a deposit of \$440.00, and therefore the landlord must pay \$880.00 to the tenants.

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

Conclusion

I have issued a Monetary Order for the respondent to pay \$890.00 to the applicants.

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 30, 2015

Residential Tenancy Branch

