



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNSD

Introduction

This is an application brought by the Landlord requesting a monetary Order in the amount of \$1773.47 and requesting an Order to keep the full security deposit towards the claim. The applicant is also requesting recovery of her \$50.00 filing fee.

The applicant testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on July 31, 2015; however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) have been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

The applicant was affirmed.

Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondents, and if so in what amount.

Background and Evidence

This tenancy began on September 1, 2012 and the tenants paid a security deposit of \$850.00 at the beginning of the tenancy.

This tenancy ended on June 30, 2015 and although the moveout inspection was arranged for that date the tenants failed to fully participate in the inspection, refusing to sign the moveout inspection report as required.

The landlord was claiming a monetary claim as follows:

25% of cost of repairs from water damage	\$970.00
Quoted cost to repaint bonus room	\$340.00
50% of cost to re-floor bedroom	\$363.47
Cost to replant back lawn	\$100.00
Filing fee	\$50.00
Total	\$1823.47

At the hearing however the landlord stated that she is willing to settle for just keeping the full security deposit of \$850.00 as a final settlement of all claims arising out of this tenancy.

Analysis

It is my finding that by failing to fully participate in the moveout inspection the tenants have forfeited their right to the return of the security deposit under section 36 of the Residential Tenancy Act which states:

36(1) The right of a tenant to the return of a security deposit or a pet damage deposit, or both, is extinguished if

- (a) the landlord complied with section 35 (2) [*2 opportunities for inspection*], and
- (b) the tenant has not participated on either occasion.

In this case the moveout inspection was arranged and agreed to, and the tenants attended on the date of the inspection; however the tenants refused to sign the inspection report as required under section 35(4) of the Residential Tenancy Act which states:

35(4) Both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.

It is my finding that by failing to sign the moveout inspection report, as required under section 35(4) of the Residential Tenancy Act, the tenants failed to

properly participate in the moveout inspection and therefore their right to return of the security deposit was extinguished.

Therefore it is my decision that the landlord has the right to retain the full security deposit.

Conclusion

I hereby Order that the landlord may retain the full security deposit of \$850.00.

As the landlord has abandoned any further claims against the tenants, I Order that the landlord may not file any further claims against the tenants arising from this tenancy.

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: December 01, 2015

Residential Tenancy Branch

