



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, MND, MNSD, FF; MNSD, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession based on a mutual agreement to end tenancy, pursuant to section 55;
- a monetary order for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenants' security deposit in full satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for their application from the tenants, pursuant to section 72.

This hearing also dealt with the tenants' application pursuant to the *Act* for:

- authorization to obtain a return of double the amount of the security deposit, pursuant to section 38; and
- authorization to recover the filing fee for their application from the landlords, pursuant to section 72.

The two landlords and their agent, "AM" (collectively "landlords") and the tenant PG ("tenant") attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses. The two landlords confirmed that their agent had authority to speak on their behalf at this hearing. The tenant confirmed that she had authority to speak on behalf of her husband, "tenant GB," the other tenant named in both applications, as an agent at this hearing. This hearing lasted approximately 73 minutes in order to allow both parties to fully present their submissions and negotiate a settlement of both claims.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the both parties were duly served with the other party's application.

I had not received the written evidence submitted by the landlords prior to this hearing. The tenant confirmed that both tenants received this written evidence from the landlords. As both claims settled, I find that it is not necessary to obtain these documents from the landlords after the hearing.

At the outset of the hearing, both parties confirmed that the tenants had vacated the rental unit. The landlords confirmed that they wished to withdraw their application for an order of possession. Accordingly, this portion of the landlords' application is withdrawn.

Issues to be Decided

Are the landlords entitled to a monetary award for damage to the rental unit?

Are the landlords entitled to retain the tenants' security deposit in full satisfaction of the monetary award requested?

Are the tenants entitled to a monetary award equivalent to double the value of their security deposit as a result of the landlords' failure to comply with the provisions of section 38 of the *Act*?

Is either party entitled to recover the filing fee for their application?

Background and Evidence

Both parties agreed that this tenancy began on July 14, 2011 and ended on June 30, 2015. Monthly rent in the amount of \$1,900.00 was payable on the first day of each month. Both parties agreed that a security deposit of \$950.00 was paid by the tenants and the landlords continue to retain this deposit. A copy of the written tenancy agreement was not provided for this hearing.

The tenant confirmed that she provided a written forwarding address by way of a letter to the landlord's agent AM on June 30, 2015, while AM denied this fact. AM stated that he only received a text message with a forwarding address from the tenant on July 14, 2015. The landlords filed their application on July 21, 2015.

Both parties agreed that a move-in condition inspection report was completed but a move-out condition inspection report was not completed. Both parties agreed that the tenants provided permission through an email for the landlords to deduct damages from their security deposit for the yard and trampoline damage but no amount was specified.

The landlords seek to retain the tenants' entire security deposit of \$950.00 for damage to the back deck, the yard, and the trampoline, which they say was caused by the tenants' dog. The tenants seek a return of double the amount of their security deposit, totalling \$1,900.00 for the landlords' failure to return it within 15 days of the end of this tenancy. Both parties also seek to recover the \$50.00 filing fees paid for their applications.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues with respect to this entire tenancy:

1. Both parties agreed that the landlords will retain the tenants' entire security deposit of \$950.00;
2. Both parties agreed to bear their own costs for the \$50.00 filing fees paid for their applications;
3. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications at this hearing and any issues arising out of this tenancy; and
4. Both parties agreed that they will not initiate any further claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise a full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties testified at the hearing that they understood and agreed to the above settlement terms, free of any duress or coercion. Both parties testified that they understood that the settlement terms are legal, final, binding and enforceable, settling all aspects of this dispute and arising out of this tenancy.

Conclusion

To give effect to the settlement reached between the parties, I order the landlords to retain the tenants' entire security deposit of \$950.00.

Both parties must bear their own costs for the \$50.00 filing fees paid for their applications.

The landlords' application for an order of possession is withdrawn.

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: January 11, 2016

Residential Tenancy Branch

