



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OLC, FF

Introduction

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

- authorization to obtain a return of double the amount of their security and pet damage deposits (collectively "deposits"), pursuant to section 38;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 62;
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The two tenants and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 111 minutes in order to allow both parties to fully present their submissions and to negotiate a settlement of this claim.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package ("Application") and the tenants confirmed receipt of the landlord's written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' Application and the tenants were duly served with the landlord's written evidence package.

Issues to be Decided

Are the tenants entitled to a return of double the amount of their deposits?

Are the tenants entitled to an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement?

Are the tenants entitled to recover the filing fee for their Application?

Background and Evidence

Both parties agreed that this tenancy began on May 1, 2013 and ended on April 30, 2015. Both parties agreed that monthly rent in the amount of \$2,550.00 was payable on the first day of each month and an additional \$150.00 was payable each month for hydro and gas costs on top of rent. Both parties agreed that the tenants paid a security deposit of \$1,275.00 and a pet damage deposit of \$1,275.00 and the landlord continues to retain both deposits.

The tenants seek a return of double their deposits, totalling \$5,100.00 from the landlord. They also seek to recover the \$100.00 filing fee for their Application.

The landlord confirmed that she initially filed an application for dispute resolution at the Residential Tenancy Branch ("RTB") and then cancelled her application, which was scheduled to be heard at the same time as the tenants' Application at this hearing, because she was intending to pursue her matter at the Supreme Court of British Columbia (SCBC) since her claim was in excess of \$25,000.00. During the hearing, the landlord confirmed that she would not be pursuing her matter at the SCBC but instead was contemplating pursuing her matter by filing a new application at the RTB. The landlord claimed that the tenants caused damages totalling approximately \$18,000.00 to her rental unit.

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 currently under dispute and arising out of this tenancy:

1. Both parties agreed that the landlord will retain the tenants' entire security and pet damage deposits, totaling \$2,550.00;
2. Both parties agreed that the tenants will pay the landlord \$2,500.00 by January 20, 2016, by way of interac e-transfer;
3. Both parties agreed that the landlord will not be required to pay the tenants \$1,016.40 in hydro and gas costs, which were overpaid by the tenants to the landlord during their tenancy;
4. The tenants agreed to bear their own cost for the \$100.00 filing fee paid for their Application;
5. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenants' Application at this hearing and any issues arising out of this tenancy;
6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the landlord's potential claims against the tenants arising out of this tenancy;

7. 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 the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final and binding and enforceable, which settle all aspects of this dispute and arising out of this tenancy.

The landlord testified that she would not be pursuing any claims against the tenants arising out of this tenancy at the SCBC. The landlord testified that she understood it would be considered double recovery to pursue the tenants at the SCBC regarding damages or any other claims arising out of this tenancy, as she has settled these matters with the tenants at this hearing.

Conclusion

In order to implement the above settlement and as advised to both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$2,500.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenants do not abide by condition #2 of the above settlement. The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible after a failure to comply with condition #2 of the above settlement. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

In order to implement the above settlement, I order the landlord to retain the tenants' entire security and pet damage deposits, totaling \$2,550.00.

The tenants must bear their own cost for the \$100.00 filing fee paid for their Application.

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 20, 2016

Residential Tenancy Branch

