



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for a monetary order for return of all or part of the pet damage deposit or security deposit.

The tenant and both named landlords attended the hearing, and the tenant and one of the named landlords gave affirmed testimony. The parties were given the opportunity to question each other and make submissions.

The tenant provided a number of photographs to the Residential Tenancy Branch but did not provide copies to the landlords. Any evidentiary material that parties wish to rely upon must be provided to the other party. The landlords do not have the photographs, and therefore, they are not considered. All other evidence provided by the tenant has been reviewed and is considered in this Decision. The landlords have not provided any evidentiary material for this hearing.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlords for return of all or part or double the amount of the security deposit and pet damage deposit?

Background and Evidence

The tenant testified that this month-to-month tenancy began on December 1, 2015 and ended on March 31, 2016. Rent in the amount of \$750.00 per month was payable on the 1st day of each month and there are no rental arrears. The tenant paid a security deposit in the amount of \$375.00 on November 5, 2015 and a pet damage deposit in the amount of \$200.00 on November 26, 2015. Copies of receipts have been provided.

On April 7, 2016 the tenant sent a letter by registered mail to the landlords to a box number which the tenant received on the envelope of previous correspondence from the landlords. A copy has been provided, which is a 3-page letter that contains a forwarding address of the tenant. The landlords have not returned any portion of either of the deposits to the tenant and the landlords have not served the tenant with an application for dispute resolution claiming against the deposits.

The tenant further testified that the landlords had served the tenant with a notice to end the tenancy, which the tenant disputed. The notice had an effective date of vacancy of March 31, 2016. The landlords made an application for an Order of Possession which was scheduled to be heard with the tenant's application to cancel the notice to end the tenancy, and the parties named on the landlord's application as landlords are the landlords named in this application by the tenant. Also, when the landlords served the hearing package on the tenant, the envelope it arrived in contained the Post Office box number that the tenant sent the registered letter to. The tenant didn't attend the hearing because she found another place to live.

The landlord testified that neither he nor the other named landlord are landlords. They manage the rental unit and collect rent on behalf of a Court appointed Receiver.

The landlord further testified that the tenant did not have all belongings out of the rental unit by March 31, 2016 as required, but kept returning to the rental unit. On April 4, 2016 the landlords called the Residential Tenancy Branch and following that, changed the locks that give access to the rental unit. The tenant's belongings were not all out until April 7, 2016 and the tenant paid no rent for April.

The landlord denies that the tenant sent the letter containing a forwarding address by registered mail, and testified that on April 7, 2016 the tenant arrived at the landlords' house, pushed her way into the home, and dropped the letter in the kitchen. RCMP were called, and that was not the only occasion that police were called.

The landlords have not made an application for dispute resolution because not all damages have been assessed.

Analysis

Firstly, neither party has provided me with a copy of the tenancy agreement. The landlord takes the position that neither of the named landlords are landlords. The *Residential Tenancy Act* defines a landlord as:

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
 - (i) is entitled to possession of the rental unit, and
 - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this.

In this case, the landlord testified that he and the other named landlord collect rent for a Court appointed receiver, and had applied for dispute resolution as agents for the landlord seeking an Order of Possession. Therefore, I find that the landlords are landlords and the proper parties to be named in this proceeding, having exercised powers and performed duties under the *Act* and the tenancy agreement on behalf of the owner.

The *Residential Tenancy Act* states that a landlord must return a security deposit and any pet damage deposit to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an application for dispute resolution claiming against the deposits within that 15 day period. If the landlord fails to do either, the landlord must repay the tenant double the amount.

In this case, the parties disagree as to the date the tenancy ended, and disagree as to the method of delivery of the tenant's forwarding address. However, the parties agree that the landlords received it, and the landlord testified it was received on April 7, 2016 which is the day the tenant finished removing all possessions from the rental unit.

The landlords have not returned any portion of the deposits and have not made an application for dispute resolution, and I find that the landlords had until April 22, 2016 to do so. Therefore, I find that the tenant is entitled to double recovery of the deposits, or \$1,150.00.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,150.00.

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: June 24, 2016

Residential Tenancy Branch