



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing dealt with an application by the tenants for double recovery of the security deposit. The tenants and the landlord attended the teleconference hearing.

At the outset of the hearing, the landlord stated that they did not receive the pages of the tenant's evidence labelled Document 5, Document 6 and Document 7. The tenants stated that they did serve all of these pages on the landlord. I found that these pages were not relevant, as they were photographs of the alleged condition of the rental unit at move-out, and the condition of the rental unit at move-out is not at issue in this application. I therefore did not admit or consider those pages.

Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other admissible evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Preliminary Issue – Teleconference Problem

Shortly after the hearing commenced, the parties were unable to hear me. I disconnected and called back into the hearing, and the problem was resolved at that time.

Issue(s) to be Decided

Are the tenants entitled to double recovery of the security deposit?

Background and Evidence

The tenancy began on December 1, 2015. At the outset of the tenancy the tenants paid the landlord a security deposit of \$750.00. On December 1, 2015 the landlord and the tenants carried out a move-in inspection and completed a condition inspection report.

On April 11, 2016 the parties attended a dispute resolution hearing that was to deal with the tenants' application for monetary compensation. During that hearing the parties agreed to settle the matter, on the conditions that (1) the tenancy ended on March 3, 2016; and (2) the tenants would not be required to pay May 2016 rent, on the basis that they withdrew their monetary claim. The arbitrator in that matter also cautioned the parties to deal with the security deposit in accordance with the Act.

The landlord did not make an application to keep the security deposit.

Tenants' Evidence

The tenants stated that on April 11, 2016 they went to the rental unit and did cleaning. They then did a move-out inspection with the landlord, but the landlord refused to fill out anything else on the condition inspection report. The tenants stated that they put their forwarding address on the bottom of the condition inspection report.

Landlord's Response

The landlord stated that the tenants did not properly clean the unit, and painting was required because one bedroom smelled of marijuana. The landlord stated that they did a quick walk-through with the tenants on April 12, 2016, but they did not complete an inspection. The landlord stated that the tenants left before completing a move-out inspection. The landlord acknowledged receiving the tenants' forwarding address in writing on the condition inspection report.

Analysis

Section 38 of the *Residential Tenancy Act* requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the amount of the security deposit.

In this case, the tenancy ended on March 3, 2016, as agreed by the parties. The tenants provided their forwarding address in writing on either April 11 or 12, 2016. The landlord has failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenants' forwarding address in writing. Neither party has provided sufficient evidence to establish that the other party extinguished their right to claim the deposit by failing to participate in the move-out inspection. I therefore find that the tenants have established a claim for double recovery of the security deposit, in the amount of \$1,500.00.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$1,500.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: July 15, 2016

Residential Tenancy Branch