



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF (Landlord's Application)
 MNSD, FF (Tenants' Application)

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by both the Tenants and the Landlord. The Landlord applied for a Monetary Order for: unpaid utilities; damage to the rental unit; to keep the Tenants' security deposit; and, for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement. The Tenants applied for the return of their security deposit. Both parties also applied to recover the filing fee from each other for the cost of making their Application.

The Landlord, the Tenants, and an agent for the Landlord who also acted as the Landlord's translator appeared for the hearing and provided affirmed testimony. The parties confirmed receipt of each other's Application. The Tenants confirmed receipt of the Landlord's documentary and photographic evidence prior to the hearing. The Tenants confirmed that they had not provided any documentary evidence prior to the hearing. The hearing process was explained to the parties and they had no questions about the proceedings. Both parties were given a full opportunity to present their evidence, make submissions to me, and cross examine the other party on the issues to be decided.

The parties agreed that the Tenants had paid a total of \$750.00 as a security deposit to the Landlord at the start of the tenancy. The parties agreed that the tenancy had ended on April 1, 2016 and the Landlord retained a balance of \$731.87 of the Tenants' security deposit. The Tenants confirmed that they had not provided the Landlord with a forwarding address prior to making their Application on April 12, 2016. The Tenants submitted that this was done through the Application. However, a landlord cannot be put on notice of a forwarding address through an Application as the landlord must be given an opportunity to comply with Section 38(1) of the Act which allows a landlord 15 days to file a claim for a tenant's security deposit. Therefore, I found that the Tenants' Application was premature and could not be determined in this hearing.

However, as the Landlord had made an Application to keep the Tenants' security deposit using the address on the Tenants' Application, I dealt with the Tenants' security deposit and what was to happen to it by hearing the Landlord's monetary claim and making findings on this accordingly. In addition, I determined that the Landlord had failed to meet the reporting requirements of the Act in the move-in and move-out condition inspection of this tenancy. However, the Landlord had applied amongst other things, to recover unpaid utilities. Therefore, while the Landlord may have extinguished his right to make a claim for damages to the rental unit from the Tenants' security deposit by failing to meet the reporting requirements of the Act, the Landlord was still entitled to make a claim for unpaid utilities from the Tenants' remaining security deposit.

Analysis & Conclusion

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.

At the conclusion of the hearing, I offered the parties an opportunity to deal with this dispute by mutual settlement. The parties turned their minds to compromise and decided that mutual agreement was the best form of resolution in this matter. The Tenants agreed that the Landlord could retain the remaining amount of the Tenants' security deposit to settle both Applications in full satisfaction. This results in a zero balance payable by each party. Therefore, no further action is required.

Conclusion

The parties agreed to settle both Applications in respect of unpaid utilities, damages to the rental unit, and the Tenants' security deposit. The Landlord is allowed to keep the remaining \$731.87 of the Tenants' security deposit in full satisfaction of both Applications. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: September 14, 2016

Residential Tenancy Branch

