



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI MNSD MND FF O

Introduction

This hearing dealt with monetary applications by the landlord and the tenants. Both the landlord and the tenants participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?
Are the tenants entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on February 1, 2007. The initial monthly rent, payable in advance on the first day of each month, was \$800.00. At the outset of the tenancy, the tenants paid the landlord a security deposit of \$400.00. The landlord did not carry out a move-in inspection with the tenants or fill out a condition inspection report.

In 2014 the landlord increased the rent to \$850.00. In 2015 the landlord increased the rent to \$900.00. The tenancy ended on or about March 31, 2016. The landlord and the tenants did not do a move-out inspection or complete a condition inspection report. The tenants gave their written forwarding address to the landlord on either March 31, 2016 or April 1, 2016. On April 13, 2016 the landlord applied for monetary compensation of \$400.00.

Landlord's Claim

The landlord acknowledged that they did not do a move-in inspection with the tenants or complete a condition inspection report. The landlord stated that they left the tenants a message requesting a walk-through at move-out, but the tenants did not appear.

The landlord stated that when they entered the rental unit after the tenancy ended, they discovered the damage left behind, as follows: garbage left behind in the basement and some thrown over the fence; a hole in the door to the basement; the exterior of the house, two heaters and a bedroom painted a different colour without permission; a broken toilet seat; broken shelving in the fridge; and satellite dishes left on the house. The landlord submitted photographs of these items.

The landlord stated that in the first week of April 2016 they left the tenants' damage deposit with the new owners, to pay for repairs.

The tenants' response was as follows. They stated that they did not receive any message from the landlord regarding a walk-through. They stated that they did not hear from the landlord until two weeks after they vacated, and anything could have happened regarding damages during that time. The tenants submitted that the items in the basement and the satellite dishes were there at the beginning of their tenancy. The tenants submitted that they did not damage the fridge, it was like that when the landlord installed it as a replacement fridge. The tenants denied leaving behind garbage or boards. The tenants denied putting a hole in the door. The tenants submitted that whenever there was a problem with anything the landlord told them they would have to fix it themselves.

Tenants' Claim

The tenants claimed double recovery of the security deposit, on the basis that they did not receive the deposit back within 15 days after giving the landlord their forwarding address in writing.

The tenants stated that the landlord illegally increased the rent, as they did not serve the tenants with the required notices of rent increase, and the increases were in excess of the permissible amounts. The tenants have claimed \$375.60 for extra rent they paid in 2014 and \$345.00 for extra rent they paid in 2015. The tenants also claimed registered mail costs of \$42.84.

The landlord pointed out that the total rent increase was only \$100.00 over a nine-year tenancy.

Analysis

Landlord's Application

I have amended the landlord's application to add a claim to keep the security deposit. It is clear from their application for \$400.00, the amount of the deposit, that they sought to keep the security deposit in compensation for the damages alleged.

I find that the landlord has failed to establish their claim. The landlord did not do a move-in inspection or complete a condition inspection report with the tenants at the beginning of the tenancy. Therefore, the landlord cannot establish what damage was pre-existing. The tenants provided reasonable explanations regarding most of the damage. The landlord did not provide a breakdown of the individual estimates or costs for repairs, and I therefore cannot determine what they may be entitled to for each item, such as painting. The landlord's application is therefore dismissed.

Tenants' Application

The landlord filed their application on April 13, 2016, less than 15 days after they received the tenants' forwarding address. The tenants are therefore not entitled to double recovery of the security deposit. The tenants are entitled to recovery of the \$400.00 base amount of their deposit, plus applicable interest of \$11.57.

The landlord did not increase the rent in accordance with the Act or within the prescribed maximums for the years in question. I therefore grant the tenants recovery of \$720.60 in rent overpayments, as claimed.

Parties to a dispute are generally not entitled to recovery of the costs of the dispute resolution process, aside from the filing fees, which I address below. I dismiss the portion of the tenants' claim regarding registered mail costs.

Filing Fees

As the landlord's application was not successful, they are not entitled to recovery of their filing.

As the tenants' application was successful, they are entitled to recovery of their \$100.00 filing fee.

Conclusion

The landlord's application was not successful. The tenants' application was partially successful.

I grant the tenants an order under section 67 for the balance due of \$1,232.17. 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: November 25, 2016

Residential Tenancy Branch