



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67;
- a monetary order for return of the security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenants and landlord's agent (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. The landlord confirmed receipt of the tenants' application for dispute resolution package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the application.

The tenants clarified that they are only seeking the return of their security deposit and the recovery of the filing fee in this application. Therefore, the tenants' application for a monetary order for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement is dismissed without leave to reapply.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for return of the security deposit?

Are the tenants entitled to recover the filing fee for this application from the landlord?

Background and Evidence

As per the testimony of the parties, the tenancy began on November 29, 2014 on month to month basis. Rent in the amount of \$1,400.00 was payable on the first of each month. The tenants remitted a security deposit in the amount of \$700.00 at the start of the tenancy. The tenants vacated the rental unit on August 1, 2016.

The parties agreed a written condition inspection report was not conducted at move-in or move-out. The landlord acknowledged receipt of the tenants forwarding address in writing on June 28, 2016.

Analysis

Pursuant to section 24 of the *Act*, when a landlord fails to properly complete or provide a move-in condition inspection report, the landlord's right to retain the security deposit, is extinguished. Because the landlord in this case did not provide a move-in condition inspection report, he lost his right to claim the security deposit for damage to the property.

As per section 38 of the *Act*, the landlord was therefore required to return the security deposit to the tenants within 15 days of the later of the two of the tenancy ending and having received the tenants' forwarding address in writing.

Because the landlord's right to claim against the security deposit for damage to the property was extinguished, and he failed to return the tenants' security deposit within 15 days of having received the forwarding address on June 28, 2016, section 38 of the *Act* requires that the landlord pay the tenant double the amount of the deposit. Therefore, I find the tenants are entitled to double the value of their security deposit in the amount of \$1,400.00 with no applicable interest. The interest payable on deposits is currently set at 0%.

As the tenants were successful in this application, I find that the tenants are entitled to recover the \$100.00 filing fee paid for the application.

Conclusion

I dismiss the tenants' application for a monetary order for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement without leave to reapply.

I issue a monetary order in the tenants favour in the amount of \$1,500.00 against the landlord.

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: February 27, 2017

Residential Tenancy Branch