



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 the landlords' application under the *Residential Tenancy Act* (the *Act*) for:

- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

As the parties were both in attendance I confirmed that there were no issues with service of the landlords' application for dispute resolution and the parties' evidentiary materials. The tenants confirmed receipt of the landlords' application package. The landlords confirmed receipt of the tenant's materials. I find that the parties were served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Are the landlords entitled to retain all or a portion of the security deposit for this tenancy? Are the landlords entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The parties agreed on the following facts. This tenancy began in February, 2017 and ended on May 31, 2017. The monthly rent was \$1,000.00 and a security deposit of \$500.00 was paid at the start of the tenancy.

The parties prepared a condition inspection report at both the start and end of the tenancy. The tenants disagreed with the landlords' assessment of damage at the end of the tenancy and did not sign the report. The tenants gave the landlord their forwarding address on June 8, 2017 and did not provide written authorization that the landlord may retain any portion of the security deposit.

The landlords submitted into written evidence receipts of the costs of cleaning, photographs to show the condition of the rental unit as well as written explanations of why they chose the method of repair or cleaning. The tenants disputed the landlords' claims, stating that the cleaning and repairs the landlord claims are excessive. The tenants submitted that the rental unit was dirty and in need of repairs when the tenancy initially began. The tenants submit that they were not instructed on how to properly clean the rental unit and followed the landlords' instructions in restoring the rental unit at the end of the tenancy.

Analysis

Section 38 of the *Act* requires the landlord to either return the tenant's security deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy or upon receipt of the tenant's forwarding address in writing. If that does not occur, the landlord must pay a monetary award, pursuant to section 38(6)(b) of the *Act*, equivalent to double the value of the security deposit. However, this provision does not apply if the landlord has obtained the tenant's written permission to keep all or a portion of the security deposit as per section 38(4)(a).

I accept the evidence of the parties that the landlords filed their application to retain the security deposit on June 9, 2017 within the 15 days of receiving the tenants' forwarding address on June 8, 2017. I accept the evidence that the tenants did not give written authorization that the landlord may retain any portion of the security deposit.

I find that the landlords have provided sufficient evidence of the monetary loss and damages arising as a result of the tenants' actions. I accept the landlords' evidence that they incurred cleaning and repair costs. I find that the receipts and invoices submitted into written evidence accurately show the amount of the loss. I accept the landlords' testimony that they reviewed options for repairs and cleaning and chose reasonable methods to minimize their loss.

I do not find the tenants' submission that the rental unit was in a state of disrepair at the start of the tenancy to be credible. The condition inspection report submitted into

written evidence signed by the tenants shows that deficiencies found by the landlords at the end of the tenancy were not identified.

I do not find the tenants' submission that they performed cleaning according to the landlords' instructions to be persuasive. Tenants have a responsibility to leave the rental unit in a state of reasonable cleanliness and repair. It is not the responsibility of the landlord to instruct tenants on how to act reasonably and clean the rental unit.

The landlords are authorized to retain the \$500.00 security deposit for this tenancy.

As the landlords' application was successful, I find that the landlords are also entitled to recover the filing fee for this application, in the amount of \$100.00.

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$100.00.

The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 27, 2017

Residential Tenancy Branch