



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDCT, MNSD

Introduction

The Application for Dispute Resolution filed by the Tenants seek a monetary order in the sum of \$280.26.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlord resides. The landlord acknowledged receipt of the Tenants' Application for Dispute Resolution. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issue to be decided is whether the tenant is entitled to a monetary order and if so how much?

Background and Evidence:

The parties entered into a written tenancy agreement that provided that the tenancy would start on November 1, 2013 continue for 3 months and become month to month after that. The rent was initially set at \$1050 per month payable in advance on the first day of each month. The tenants were responsible to pay 75% of the water and power bills. The tenant(s) paid a security deposit of \$525 on October 15, 2013.

The rent at the time the tenancy ended was \$1140 per month.

The tenancy ended on February 28, 2018. .

The tenant(s) provided the landlord with his/her their forwarding address in writing on March 2, 2018. The tenants agreed in writing that the landlord could keep as much of the security deposit that was needed to pay the power and water bills.

Analysis:

With regard to each of the Tenants claims I find as follows:

- a. The landlord acknowledged that he made an error in calculating the amount the tenants owed for the power and water bill and that the tenants are entitled to the amount claimed in the sum of \$242.26. I determined the Tenants are entitled to this sum.
- b. The Residential Tenancy Act provides that a landlord must return the security deposit plus interest to the tenants within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing unless the parties have agreed in writing that the landlord can retain the security deposit, the landlord already has a monetary order against the tenants or the landlord files an Application for Dispute Resolution within that 15 day period. It further provides that if the landlord fails to do this the tenant is entitled to an order for double the security deposit.

The tenants paid a security deposit of \$525 on October 15, 2013. I determined the tenancy ended on February 28, 2018. I further determined the tenants provided the landlord with their forwarding address in writing on March 2, 2018. The parties agreed in writing the landlord could apply as much of the security deposit as necessary to pay off the power and water bills. The balance of the security deposit after this occurred was \$38. The landlord does not have a monetary order against the tenants and the landlord failed to file an Application for Dispute Resolution within the 15 days from the later of the end of tenancy or the date the landlord receives the tenants' forwarding address in writing. The Tenant stated at the hearing he was not waiving his right to the doubling of the security deposit held by the landlord. As a result I determined the tenants have established a claim against the landlord for double the security deposit held by the landlord or the sum of \$76.

- c. The Tenant requested an order to recover the cost of the filing fee in the sum of \$100. The landlord objected submitting the Tenants failed to include this claim in the Application for Dispute Resolution that he received and the monetary order worksheet. Rule 2.2 of the Rules of Procedure provide as follows:

“ 2.2 Identifying issues on the Application for Dispute Resolution

The claim is limited to what is stated in the application.”

I dismissed the claim for reimbursement of the cost of the filing fee as it was not included in the Application for Dispute Resolution the Tenant served on the landlord.

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenants the sum of \$318.26.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

The landlord stated he intends to make a counterclaim against the Tenants. The parties were unable to reach a settlement. The landlord will have to file an Application for Dispute Resolution before the landlord's claim can be adjudicated. As a courtesy to the parties I have included section 60 of the Residential Tenancy Act which provides as follows:

“Latest time application for dispute resolution can be made

60 (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.

(2) Despite the Limitation Act, if an application for dispute resolution is not made within the 2 year period, a claim arising under this Act or the tenancy agreement

in relation to the tenancy ceases to exist for all purposes except as provided in subsection (3).

(3) If an application for dispute resolution is made by a landlord or tenant within the applicable limitation period under this Act, the other party to the dispute may make an application for dispute resolution in respect of a different dispute between the same parties after the applicable limitation period but before the dispute resolution proceeding in respect of the first application is concluded.”

This decision is final and binding on both parties.

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: September 17, 2018

Residential Tenancy Branch