



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDL-S, FFL**

Introduction

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

- A monetary award for damages and loss pursuant to section 67;
- Authorization to retain the deposits for this tenancy pursuant to section 38; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

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

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Are the landlords entitled to a monetary award as claimed?

Are the landlords entitled to retain all or a portion of the deposit for this tenancy?

Are the landlords entitled to recover the filing fee from the tenants?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. This tenancy began in May 2020. Monthly rent was \$1,875.00 payable on the first of each month. A security deposit of \$937.50 was collected at the start of the tenancy and is still held by the landlord. The present applicants assumed this tenancy when they purchased the rental property from the original landlord.

There was a move-in condition inspection report prepared by the tenants and the original landlord when the tenancy commenced. The tenant gave testimony that while they conducted the initial inspection and signed the inspection report they believe the report is not accurate or legitimate.

The parties agree that they met on August 3, 2021 when the tenancy ended to complete a move-out inspection report. The parties agree that the tenants declined to perform the inspection and sign the report prepared by the landlords.

The landlord submits that the rental unit required some minor cleaning attributable to the tenancy and they incurred costs of \$220.00 for the work performed. The landlord submitted photographs of the suite and the correspondence from the third party professional cleaners as evidence of the work and costs.

The tenant gave lengthy testimony about various deficiencies they felt about the tenancy, the previous landlord, the circumstances by which the move-in condition inspection report was prepared, the move-out inspection, not being provided an opportunity to clean the suite, their ownership of cleaning supplies and supposition that the photographs submitted by the landlord of the suite are inaccurate.

Analysis

Section 36(1) of the Act provides that the right of a tenant to a return of the security deposit is extinguished if the landlord has complied with the requirement to provide the tenant with at least 2 opportunities for an inspection and the tenant has not participated on either occasion.

In the present circumstances the parties agree that no condition inspection was performed at the scheduled time and the tenants declined to participate in an inspection at another time. The tenants gave rambling explanation of why they believe that the landlord did not act in accordance with the Act and regulations and why they declined to participate in a move-out inspection, none of which I find to be particularly cogent, supported in any of the documentary materials, or of any probative value.

I accept the evidence of the landlord that they provided the tenants with at least 2 opportunities to participate in a move out inspection and the tenants failed to do so. Consequently, I find the tenants have extinguished their rights to a return of any portion of the security deposit for this tenancy.

The landlords are authorized to retain the full amount of the deposit for this tenancy.

Conclusion

The landlords are authorized to retain the full amount of the security deposit for this tenancy.

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 28, 2022

Residential Tenancy Branch