



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenants MNDC, MNSD, FF
Landlords MND, MNDC, MNSD, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenants.

The Landlords filed seeking a monetary order for compensation for damage to the unit, site or property, for damage or loss under the Act, the regulations or the tenancy agreement, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

The Tenants filed seeking a monetary order for compensation for damage or loss under the Act, the regulations or the tenancy agreement, for the return of the Tenants' security deposit and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlords to the Tenants were done by registered mail on July 21, 2011, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenants to the Landlords were done by registered mail on July 26, 2011, in accordance with section 89 of the Act.

Both parties confirmed that they received the other party's hearing package.

Issues to be Decided

Landlord:

1. Are there damages or losses to the Landlords and if so how much?
2. Are the Landlords entitled to compensation for damage or loss and if so how much?
3. Are the Landlords entitled to retain the Tenants' security deposit?

Tenant:

1. Are there damages or loss to the Tenants and if so how much?
2. Are the Tenants entitled to compensation for damage or loss and if so how much?
3. Are the Tenants entitled to recover the security deposit?

Background and Evidence

This tenancy started on February 1, 2011, it was a fixed term tenancy for 6 months. Rent was \$1,050.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$525.00 at the end of January, 2011.

The Landlord said he gave the Tenants a notice to end tenancy on June 9, 2011 for the Tenants to move out by July 9, 2011. The Tenants said the notice to end the tenancy was not on the correct form, but they did move out of the unit on July 9, 2011. The Landlord continued to say that the Tenants did not pay the rent for July 1 to July 9, 2011 in the amount of \$315.00. As well the Landlord said he is claiming \$1,500.00 for damage to the carpets which he had to replace because the Tenants stained it. The Landlord said his total claim is for \$1,815.00. The Landlord continued to say he is also requesting to retain the Tenants' security deposit of \$525.00 as partial payment of his claim for rent and damages.

The Tenant said there was no move in or move out condition inspection reports done and the Landlord evicted them illegally because the Landlord did not serve them with a valid Notice to End Tenancy. The Landlord agreed that no move in or move out condition inspection reports were done and that he (the Landlord) did not use a valid Notice to End Tenancy when he evicted the Tenants.

The Tenants continued to say they have applied for the return of double the security deposit, because the Landlord did not returned their security deposit within 15 days of

the end of the tenancy. The Tenant said he was told he could apply for this by an Information Officer with the RTB. The amount the Tenants are applying for is 2 X \$1050.00 (monthly rent) = \$2,100.00.

Analysis

Section 23 and 35 of the Act say that a landlord and tenant must do condition inspections to establish the condition of the rental unit at the start and the end of the tenancy. If this is not done and there is no other acceptable evidence of the condition of the rental unit at the start and the end of a tenancy then the applicant cannot establish the amount of damage or if any damage was done to the rental unit. As well section 24 and 36 of the Act say the Landlords right to the security deposit is extinguished if the reports are not completed and signed.

As the Landlord said he did not do the condition inspection reports, I find he is unable to establish the condition of the rental unit at the start of the tenancy therefore; I find that the Landlord has not established proof that the Tenants damaged the rental unit. Consequently, I dismiss the Landlord's application for damages to the unit, site or property without leave to reapply.

Both the Landlords and the Tenants agreed that the Tenants lived in the unit from July 1, 2011 to July 9, 2011 and the rent owing for that period is \$315.00. The Tenants said they did not dispute the letter from the Landlord to end the tenancy and they agreed to move out on July 9, 2011. Consequently, I find for the Landlord for the unpaid rent in the amount of \$315.00 and I Order the Landlord to retain \$315.00 of the Tenants security deposit as full settlement for unpaid rent.

With respect to the Tenants' application for double the security deposit in the amount of \$2,100.00, I find the Landlords did apply to retain the security deposit within the allotted 15 days under section 38 of the Act therefore I dismiss the Tenants application and claim as the Landlords complied with the Act in regards to handling the Tenants' security deposit. In addition I order the Landlord to return the balance of the Tenants' security deposit in the amount of \$210.00 forth with.



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As the Landlords and the Tenants were both only partially successful in this matter I order both parties to bear the cost of the filing fee of \$50.00 each for this proceeding, which they have already paid.

Conclusion

I order the Landlord to retain \$315.00 of the Tenants' security deposit.

I order the Landlord to return \$210.00 of the Tenants' security deposit immediately.

The Tenants' application is dismissed without leave to reapply.

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*.

Residential Tenancy Branch