



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the tenants' application to recover their security and pet deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the landlords for the cost of this application.

Service of the hearing documents, by the tenants to the landlords, was done in accordance with section 89 of the *Act*, sent via registered mail on September 17, 2012. Mail receipt numbers were provided in the tenants' documentary evidence. The landlords are deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenants appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlords, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Are the tenants entitled to recover double the security deposit?
- Are the tenants entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The tenants testify that this tenancy started on August 31, 2012. There was a verbal agreement for the tenants to rent this unit from the landlords for \$950.00 per month. The tenants testify that the landlords had not yet drawn up a tenancy agreement. The tenants paid a security deposit of \$475.00 and a pet deposit of \$100.00 on August 28, 2012.

The tenants testify that prior to renting the unit the tenant MM spoke to the landlord MN and informed the landlord that the tenants had a Pit Bull dog. The tenant states the landlord agreed to rent the unit to the tenants. The tenants' states they moved into the unit. The next day, after the landlord had told his wife what type of dog the tenants had, the landlords asked the tenants to move out.

The tenants testify that no legal notice was given to the tenants to vacate the rental unit however as the tenants had not yet unpacked they decided to move out. The tenants testify that they had paid the rent of \$950.00 for September, 2012 to the landlords and they asked the landlords to return that sum less the three days the tenants had lived in the rental unit.

The tenants testify that the landlords informed the tenants that the landlords had spent the money. The tenants asked the landlord to put together a repayment plan however the landlords have not done so and have failed to return the rent. The tenants seek to recover rent paid of \$950.00. The tenants also seek to recover the cost to move to a new rental unit which included the sum of \$120.00 for the gas for three friends' vehicles who helped the tenants move and the sum of \$1,000.00 for six friends to help them move. The tenants claim these friends spent 40 hours collectively helping the tenants move and seek \$25.00 per hour.

The tenants seek to recover their security and pet deposits. The tenants agree they have not provided a forwarding address in writing to the landlords at this time.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the tenants. With regard to the tenants claim to recover the security and pet deposits; Section 38(1) of the *Act* says that a landlord (or the person acting as his agent) has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants address in writing to either return the security and pet deposits to the tenant or to make a claim against it by applying for Dispute Resolution. Consequently as the tenants have not yet provided their forwarding address to the landlords in writing I find the tenants claim for the return of their security and pet deposits is premature and as such this section of the tenants claim is dismissed with leave to reapply.

With regard to the tenants claim for money owed or compensation for damage or loss; the tenants seek to recover the rent paid for September and for moving costs. I have considered the tenants application, however it is my decision that the tenants did not have to move from the rental unit as no legal notice to vacate was provided to them by the landlords. Consequently it was the tenants' choice to move out on September 03, 2012 and the tenants could not legally end their tenancy until September 30, 2012. Therefore, the tenants are not entitled to recover rent paid for September or claim their moving costs. This section of the tenants claim is therefore dismissed without leave to reapply.

As the tenants have been unsuccessful the tenants must bear the cost of filing their own application.

Conclusion

The tenants' application to recover the security and pet deposits are dismissed **with leave to reapply**.

The remainder of the tenants claim 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*.

Dated: November 27, 2012.

Residential Tenancy Branch