Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the tenants seeking a monetary order for money owed or compensation for damage or loss under the Act, the regulation or tenancy agreement and an order to have the landlord return double the security and pet deposit. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Are the tenants entitled to any of the above under the Act, the regulation or the tenancy agreement?

Background and Evidence and Analysis

Both parties agree on the following:

The tenancy began on or about November 15, 2012 and ended on May 11, 2013. Rent in the amount of $850.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a $425.00 security deposit and a pet deposit in the amount of $200.00.

As the tenants are the sole applicant in this matter I will address each of their claims and my findings as follows:

First Claim – The tenants are seeking the return of double the security and pet deposit. The tenants stated that the landlord did not conduct a condition inspection report at move in or move out. The tenants stated that they gave the keys to the landlord on May 12, 2013 as well as their forwarding address. The landlord agreed with the tenants' testimony. The landlord stated that she never had any intention of retaining the security or pet deposit but "wanted to work with the tenants" in terms of cleaning and some minor damage. The landlord filed for dispute resolution on May 27, 2013 seeking a monetary order for damages; no filing of a claim towards the damage deposit was made. That hearing was conducted on August 29, 2013 before another Arbitrator. Section 24(2) of the Act outlines that a landlord must conduct a condition inspection report at the start and end of tenancy, if a landlord does not they have extinguished their right to make a claim against the deposits. The landlord did not have a right to claim the deposit and was bound by Section 38 of the Act to return the deposit within 15 days of the end of tenancy or receiving the tenant's forwarding address in writing, whichever the later. In this case it was on the same day. As the landlord has not complied with the aforementioned sections I find that the tenants are entitled to the return of double their security and pet deposit $625.00 X 2 =$1250.00.

Second Claim – The tenants are seeking $109.67 for being locked out of their rental unit for four days at the end of the tenancy. In the tenants own testimony they stated that the dropped off the keys on May 12, 2013 of their own volition. The landlord did not make any requests to have the keys dropped off earlier than required. The tenants have not provided sufficient evidence to satisfy me and I dismiss this portion of their application.

Third Claim – The tenants are seeking $256.20 for carpet cleaning and $25.00 for half the filing fee that the tenants were ordered to pay to the landlord from the previous hearing. As that matter was dealt with a separate Arbitrator in a separate hearing there is no jurisdiction or need for me to address this matter as it falls under res judicata.

As for the monetary order, I find that the tenants have established a claim for $1250.00. As the tenants have been partially successful they are entitled to the recovery of half of their filing fee in the amount of $25.00. I grant the tenants an order under section 67 for the balance due of $1275.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenants are granted a monetary order for $1275.00.

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 09, 2013

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Residential Tenancy Branch