



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

LL: MNR, MNSD, MNDC, FF
TEN: MNSD, FF

Introduction

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

The Landlord filed seeking a monetary order for unpaid rent, for damage or loss under the Act, regulations or tenancy agreement, to retain the Tenants' security and pet deposits and to recover the filing fee for this proceeding.

The Tenants filed for the return of double the security and pet deposits and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlord to the Tenants were done by registered mail on October 13, 2014, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenants to the Landlord were done by registered mail on July 17, 2014, in accordance with section 89 of the Act.

The Landlord and Tenants both confirmed that they received the other's hearing packages.

At the start of the conference call the Arbitrator questioned the parties why there was very little evidence submitted to support their claims. The Landlord submitted his application, a written description of his claim with an estimate of the unpaid rent, the tenancy agreement and two rent cheques for \$1,350.00. The Landlord said he sent in what he was told to send in. The Tenants application included their application and two postal receipts for the registered mail packages they sent to the Landlord. The Tenants said they did not know what to send in. The Arbitrator cautioned the parties that to be successful in a monetary claim a party must have corroborative evidence to support the claim.

Issues to be Decided

Landlord:

1. Is there unpaid rent and if so, how much?
2. Is the Landlord entitled to compensation for loss or damage and if so how much?

3. Is the Landlord entitled to retain the Tenant's deposits?

Tenant:

1. Are the Tenants entitled to recover double the security and pet deposits?

Background and Evidence

This tenancy started on October 1, 2011 as a 6 month tenancy which was extended another 6 month and then continued on a month to month basis. Rent was \$1,500.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$625.00 and a pet deposit of \$100.00 on October 1, 2011. The Tenant said this tenancy was a continuation of a tenancy with the previous owner of the building prior to October 1, 2011. The Landlord said he purchased the rental complex in September, 2011. The parties agreed that no condition inspections were completed at the start or the end of the tenancy and that the Tenants did not give the Landlord their forwarding address in writing until their application was served to the Landlord. The Tenants said they texted their address to the Landlord and the Landlord said he did not receive a text with the Tenants' forwarding address in it.

The Landlord said he posted a 2 Month Notice to End Tenancy for Landlord's use of the property dated December 28, 2013 on December 29, 2013. The Notice had an effective vacancy date of February 28, 2014 on it. The Tenants said they did not receive this Notice and they have not seen it to date. The Landlord had no explanation for not submitting the 2 Month Notice to End Tenancy for Landlord's Use of the Property into evidence.

The Landlord continued to say that he is claiming February, 2014 rent of \$1,500.00 and an average of \$100.00 for 25 months as the Tenants did not pay the full \$1,500.00 of rent over the last 25 months. The Landlord said he did not know exactly how much unpaid rent there was, but \$100.00 per month should cover it.

The Tenants said they had performed work and maintenance for the Landlord at the rental complex so the Landlord had reduced the rent for them depending on the work they did. The Tenants said some of their rent cheques had notations about the work done on them. The Tenants did not submit any of the rent cheques with notations about work done for the Landlord.

The Landlord continued to say that according to the 2 Month Notice to End the Tenancy he gave the Tenants the month of March, 2014 rent free as compensation for the Notice as required to do so in the Act. The Landlord said he extended this from February to March, 2014 on the request of the Tenants. The Tenants said they moved out on February 4, 2014 so they did not request an extension of the tenancy.

Analysis

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met. It is the responsibility of both parties to proof their claims with corroborative evidence. In the Tenants application there is no evidence to support their claims and the Tenants said they had not given the Landlord their

forwarding address in writing until the Landlord received the Tenants' hearing package. Section 38 says the landlord must return or apply to retain the Tenants' deposits within 15 days of the end of tenancy and receiving the Tenants' forwarding address in writing. Consequently as the Tenants' have no proof that they gave the Landlord their forwarding address in writing until their application; I dismiss the Tenants' application with leave to reapply due to the lack of supporting evidence. As well I order the Landlord to deal with the Tenants' security and pet deposits within 15 days of this hearing or by December 9, 2014. The Landlord can return the deposits or make an application to retain the deposits.

With respect to the Landlord's application, I do not accept estimates for unpaid rent; therefore I dismiss the Landlord's claim for \$100.00 per month for 25 months in the amount of \$2,500.00. As well the Landlord has not proven the rent compensation to the Tenants for the 2 Month Notice to End Tenancy for Landlord's Use of the Property was for March or for February, 2014; therefore I dismiss the Landlord's claim for unpaid rent for February, 2014. Consequently I dismiss the Landlord's application with leave to reapply due to the lack of evidence to support the Landlord's claims.

As both parties have been unsuccessful in this matter I order the Parties bear the cost of the filing fee of the \$50.00 themselves.

Conclusion

The Tenants' application is dismissed with leave to reapply.

The Landlord's application is dismissed with 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 24, 2014

Residential Tenancy Branch

