



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and for a monetary order for return of all or part of the pet damage deposit or security deposit.

The landlord and one of the tenants attended the hearing, and the tenant also represented the other named tenant. The parties each gave affirmed testimony and were given the opportunity to question each other respecting their testimony and the evidentiary material provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

- Have the tenants established a monetary claim as against the landlord for all or part or double the amount of the security deposit?

Background and Evidence

The tenant testified that this fixed term tenancy began on August 1, 2014 and expired on July 31, 2015 thereafter reverting to a month-to-month tenancy. The tenants moved out of the rental unit on or about May 1, 2016. Rent in the amount of \$900.00 per month was originally payable, but increased to \$922.50 during the tenancy, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$450.00 and no pet damage deposit was collected. The rental unit is an apartment in a complex containing many apartments, and a copy of the tenancy agreement has been provided.

The tenant further testified that no move-in or move-out condition inspection reports were completed, but the parties walked through the rental unit on April 30, 2016 at the end of the tenancy and the landlord said it looked good and the security deposit would be returned on May 2, 2016. Then the landlord sent an email to the tenants saying that he was keeping the security deposit. The tenant requested another walk-through, but the landlord denied the request.

The tenant sent her forwarding address to the landlord in an email on May 3, 2016, and the parties exchanged numerous emails, copies of which have been provided.

The landlord has not returned any portion of the security deposit to the tenants and the tenants have not been served with an application for dispute resolution by the landlord claiming against the security deposit.

The landlord testified that the email containing the tenants' forwarding address did not contain the tenants' names or postal code, only a post office box number, City and Province.

The emails also contain information about damages. The landlord didn't complete the inspection reports so the landlord didn't believe he could ask for compensation. The place was left in quite a mess. Carpets were not cleaned even though the tenants resided in the rental unit for 2 years.

The landlord further testified that there may be strata fines imposed that the tenants are responsible for, but the landlord does not yet know how much, if any, and was waiting to submit an application for dispute resolution because he is not ready to file, not knowing the amounts.

Analysis

The *Residential Tenancy Act* states that where a landlord has not caused the move-in and move-out condition inspection reports to be completed in accordance with the regulations, the landlord's right to claim against the security deposit for damages is extinguished. The *Act* also states that a landlord has 15 days from the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return the security deposit in full to the tenant or make an application for dispute resolution claiming against it. Therefore, the landlord is correct, that he could not make a claim against the security deposit for damages, which would include strata fines, but could make a claim against the security deposit for unpaid rent or utilities. In this case, there are no rental arrears. Therefore, the landlord had one choice which was to return the security deposit.

Generally, providing a forwarding address in writing in an email or text message is not sufficient. However, where it is clear that the parties exchanged emails and the landlord received the tenant's forwarding address, an emailed forwarding address may be sufficient for the purposes of the legislation.

I have reviewed the emails provided by the tenants, particularly the exchange wherein the tenant provides a forwarding address. I have compared the email addresses, and the day prior to the date the tenant provides the address, the landlord sent an email from that email address to the tenant. The other emails also contain the same email addresses of both parties.

The landlord testified that the address does not contain a street address or a postal code. The *Act* requires a tenant to provide "a forwarding address," and I find that the landlord received that on May 3, 2016. The landlord had until May 18, 2016 to deal with the trust monies. The landlord has not returned the security deposit and has not made a claim against it and therefore I find that the tenants have established a claim for double, or \$900.00.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$900.00.

This order is final and binding and may be enforced.

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: June 23, 2016

Residential Tenancy Branch