



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlords for the cost of the application.

The tenant and one of the named landlords attended the hearing, and the landlord also represented the other named landlord. The parties each gave affirmed testimony and were given the opportunity to question each other.

The parties also each provided evidentiary material, however not all of the photographs of the landlords were received by the tenant. The landlord seemed somewhat confused about the number of photographs provided, stating that he sent 5 to the Residential Tenancy Branch and to the tenant. The Residential Tenancy Branch received 9 photographs, and the tenant testified under affirmation that she only received 2 of them. I am not satisfied that the landlords have provided all of the photographs to the tenant, and all evidence other than the photographs is considered in this Decision.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlords for return of all or part or double the amount of the security deposit?

Background and Evidence

The tenant testified that this fixed-term tenancy began on July 1, 2013, expiring on June 30, 2014, and the tenant moved out of the rental unit on May 3, 2015. A copy of the tenancy agreement has been provided which states that at the end of the fixed term the tenancy may continue on a month-to-month basis or for another fixed length of time. The landlords allowed the tenant to move in a few days early, so long as the tenant put the utilities in her name, which she did. The landlords also allowed the tenant extra time to move out because the moving truck was not available for an April 30, 2015 move-out.

The landlord had told the tenant that he wouldn't be re-renting right away because he wanted to do some work on the rental unit.

Rent in the amount of \$800.00 per month was payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$400.00.

The tenant was moving to a different City and offered to do a move-out condition inspection prior to leaving, but the landlord denied the request stating that his wife would do it the next day. The tenant never heard from either landlord the next day, so no move-out condition inspection report was completed.

On August 5, 2015 the tenant sent to the landlords a letter requesting return of the security deposit and providing a forwarding address of the tenant to send it to. The landlords responded in a letter dated August 18, 2015 stating that the deposit would not be returned due to damages. Copies of both letters have been provided. The landlords have not served the tenant with an application for dispute resolution claiming against the deposit, nor have the landlords returned any portion of the security deposit, and the tenant claims double the amount.

The landlord testified that the tenant left damages to the rental unit which costs exceed the \$400.00 security deposit, including damage to the lawn by the tenant's swimming pool. The landlord always took care of repairs in a timely manner and erected a fence with a gate to accommodate the tenant's pool, which was only used for about 1 month.

The landlord is not sure when he received the tenant's forwarding address in writing, but agrees that it was prior to August 18, 2015 when the landlords responded to the tenant's request for return of the security deposit.

The rental unit was re-rented about 3 or 4 weeks after the tenant moved out.

The landlord also testified that the tenant was supposed to return the day after the moving truck left to complete the move-out condition inspection report, but the tenant didn't show up. The landlords had no way of reaching the tenant to schedule the inspection. The landlords didn't file an application for dispute resolution claiming against the deposits because they were waiting for the tenant to return to complete the inspection.

Analysis

The *Residential Tenancy Act* is very clear with respect to security deposits and pet damage deposits collected by a landlord. A landlord must return the deposit(s) in full to a tenant or make an application for dispute resolution claiming against the deposit(s) within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. If the landlord does neither, the landlord must repay the tenant double the amount.

In this case, I find that the tenancy actually ended on May 5, 2015 and the landlords received the tenant's forwarding address in writing on or before August 18, 2015. The landlords did not return the security deposit to the tenant and did not make an application for dispute resolution, and therefore, I find that the tenant is entitled to double the amount. There is no dispute that the amount of the security deposit paid to the landlords was \$400.00, and I find that the tenant has established a claim for \$800.00.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlords 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: August 18, 2016

Residential Tenancy Branch