

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the tenant for a monetary order for the return of the security deposit and for an amount the parties agreed the landlord owes the tenant. The application is inclusive of an application for recovery of the filing fee for the cost of this application.

Both, the tenant and the landlord were represented at today's hearing

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit amount claimed?

Is the tenant entitled to the amount they claim they are owed by the landlord?

Background and Evidence

The undisputed facts before me are as follows.

The tenancy began on February 01, 2008. The tenancy was executed by the applicant and a co-tenant. The tenancy ended on December 01, 2009. The landlord collected a security deposit of \$450 at the outset of the tenancy. At the end of the tenancy the tenants and the landlord conducted an inspection. I do not have benefit of the inspection results, but the applicant and the landlord agree that the tenants were owed the return of the majority of the security deposit, minus an amount for some light bulbs. The landlord testified they consulted with Residential Tenancy Branch and as a result returned the full agreed amount of the security deposit to the tenant(s) within 15 days of the tenancy ending.

The applicant testified that at the end of the tenancy she and the co-tenant were experiencing issues in their relationship and, once the landlord returned the agreed security deposit by cheque in the name of to the co-tenant, they were unable to obtain back from them what the applicant determined was their portion. The applicant asserts the landlord knew of their relationship fallout with the co-tenant and therefore should have allocated the security deposit, accordingly. The landlord testified that each of the 2 co-tenants requested the return of the security deposit and each provided a

forwarding address. The landlord asserts they returned the security deposit to the individual which paid the security deposit at the outset.

The applicant also testified that at the end of the tenancy she and the landlord agreed the applicant would receive a separate \$77.18 from the landlord. The landlord testified that she made an attempt to personally give this amount to the applicant after the tenancy ended by driving to her residence, but that she was hesitant to give the money to a different individual at the residence who, in the landlord's determination, was obstructive. The landlord is not opposed to giving the applicant the claimed \$77.18.

Analysis

On preponderance of the evidence and on the balance of probabilities, I have reached a decision.

Section 38(1) of the Residential Tenancy Act (the Act) provides as follows

38(1) Except as provided in subsection (3) or (4) (a),

38(1)(a) the date the tenancy ends, and

38(1)(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

38(1)(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

38(1)(d) file an application for dispute resolution to make a claim against the security deposit or pet damage deposit.

I find that the landlord returned the security deposit to the tenants, (albeit, one of the tenants) along with the accrued interest, within 15 days of the end of the tenancy and on receiving the tenant's forwarding address in writing, and having done so fulfilled her obligation in the administration of the security deposit.

The landlord currently holds \$77.18 which the landlord and applicant agree is owed to the applicant and that the landlord, by agreement, was obligated to pay the applicant. I find the landlord's attempt at being prudent in returning this amount personally did not

prevent the landlord from returning it by another method prescribed by Section 88 of the Act – for example, ordinary mail.

The parties agreed that the landlord will pay the applicant **\$77.18**.

I find the tenant's application had partial merit. As a result, I will grant the tenant partial recovery of the filing fee in the amount of \$25, for a total entitlement of **\$102.18**.

Conclusion

I grant the applicant a Monetary Order under section 67 for the sum of **\$102.18**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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*.