



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNSD, FF

Introduction

This Dispute Resolution hearing was convened to deal with an Application by the tenant for a monetary order for the return of double the security deposit retained by the landlord.

Both parties appeared at the hearing and gave evidence.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence is whether the tenant is entitled to the return of the security deposit pursuant to section 38 of the Act.

Background and Evidence

Submitted into evidence was a copy of the tenancy agreement, a copy of the tenant's rental application, a copy of the move-in and move-out inspection report, copies of receipts, a copy of a list of charges for painting and a copy of the tenant's written Notice to vacate.

The tenancy began in January of 2010 with rent of \$750.00. A security deposit of \$375.00 and pet damage deposit of \$200.00 were paid.

There was a previous application by the landlord seeking to retain the security deposit in partial satisfaction for alleged damages that was heard on August 18, 2011. This application was dismissed.

The tenant testified that the landlord had never returned the security deposit. After the landlord's application was dismissed, the tenant expected a full refund. The tenant is now seeking the return of double the security deposit under the Act.

Analysis

In regard to the return of the security deposit and pet damage deposit, I find that section 38 of the Act provides that, within 15 days after the later of the day the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit or pet damage deposit to the tenant with interest, or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) provides that, if a landlord does not comply with the Act by refunding the deposit owed or making application to retain it within 15 days after receipt of the tenant's written forwarding address, the landlord may not make a claim against the security deposit and must pay the tenant double the amount of the security deposit.

The tenant was claiming compensation equal to double the deposit. But in this instance I find that the landlord did make an application within 15 days of the end of the tenancy and the provision of the written forwarding address, despite the fact that the landlord's application was not successful.

As the landlord had applied within the required 15 days, the tenant is not entitled to the return of double the security deposit. However, I find that the tenant is still entitled to a refund of their original security deposit and pet damage deposit in the amount of \$575.00 plus the \$50.00 cost of this application.

Conclusion

Based on the testimony and evidence presented during these proceedings, I find that the tenant is entitled to compensation of \$625.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) 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*.

Dated: December 29, 2011.

Residential Tenancy Branch