



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application by the Tenant for a monetary order seeking double the security deposit and pet damage deposit and the filing fee for this application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Issue(s) to be Decided

Has there been a breach of Section 38 of the Residential Tenancy Act, (the "Act"), by the Landlord?

Background and Evidence

The parties agree that the Tenant paid the Landlord a security deposit of \$262.50 and a pet damage deposit of \$262.50 for a total of \$525.00 in deposits at the start of the tenancy. The parties agree that they had a tenancy agreement and that the tenancy commenced on April 01, 2011 with a monthly rent of \$525.00. The parties did not provide a copy of the tenancy agreement into evidence. The parties agree that the tenancy ended on November 30, 2011.

The parties agree that the Tenant did not authorize the Landlord to keep any of the security deposit or pet damage deposit.

The Tenant stated that he provided the Landlord a forwarding address in writing on November 30, 2011 and requested the deposits be returned to him by mail at his post office box. The Tenant filed an application for dispute resolution on December 22, 2011 as he had not received the deposits at that time. The Tenant stated that he picked up the cheque for \$525.00, the full amount of the deposits, from his post office box on December 23, 2011. The Tenant stated that he had been checking his post office box every two or three days and that the cheque had not been there on December 15, 2011. The Tenant stated that the envelope showed that the Canada Post processing date on the envelope shows that the Landlord had mailed it on December 15, 2011. The Tenant stated because he did not have the cheque in his hands on or before December 15, 2011, the Landlord owes him double the amount of the deposits. The Tenant is seeking double the amount of the deposits owed \$1,050.00 (\$525.00 x 2) plus the filing fee of \$50.00, less the deposits received in the amount of \$525.00. The Tenant is

seeking a total of \$575.00 to compensate him for receiving the deposits on December 23, 2011.

The Landlord stated that on November 30, 2011 the Tenant requested that the deposits be returned and provided a forwarding address to send the cheque to. The Landlord stated that they issued the cheque to the Tenant within 15 days after receiving the address from the Tenant, as required by the Act. The Landlord stated that the Tenant's testimony confirms that the post mark on the envelope shows the mail was received and processed by Canada Post on December 15, 2011, which is exactly 15 calendar days after the Tenant provided his address to them. The Landlord states that they are not responsible to any delays caused by Canada Post. The Landlord stated that the Tenant is not entitled to double the deposits or the filing fee.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities:

I find that the Tenant is not entitled to double their security deposit and pet damage deposit.

I have considered the testimony and evidence of the parties and the requirements of the Act with regards to return of the deposits. The Act states that a Landlord is obligated to return the deposits within 15 days after receiving the Tenant's forwarding address, the Act does not say that it must be in the hands of the Tenant within 15 days. Section 38 (8) of the Act specifically states that the Landlord must use a service method set out in section 88 (c), (d), or (f), which allows a Landlord to send the deposits by ordinary mail. As the Landlord ensured that they sent the full amount of the deposits, by ordinary mail December 15, 2011, they met the requirements of the Act to return the deposits within 15 days after receiving the forwarding address from the Tenant.

I do not find that the Landlord contravened section 38 of the Act; as a result I dismiss the Tenant's claim for double the deposits.

As the Tenant did not succeed in his application, I find that he is not entitled to recover the filing fee.

Conclusion

The Tenant's application is dismissed.

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: March 15, 2012.

Residential Tenancy Branch