



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order for return of double the security deposit - Section 38
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on July 1, 2011. At the outset of the tenancy, the Landlord collected a security deposit and pet deposit from the Tenant in the combined amount of \$775.00. The Tenant was promised a reimbursement of \$50.00 for the unclean state of the unit at move-in. The Tenant provided full notice to end the tenancy on February 1, 2012 but moved out of the unit on January 27, 2012. The Tenant informed the Landlord's representative on January 27, 2011 that the move-out was completed and the representative attended with the Tenant to complete the move-out inspection on this date. The Tenant agreed to a deduction from the security deposit of \$112.00 for costs of cleaning the carpet in the unit. The Tenant returned the keys to the unit on January 27, 2012 and was told that the security deposit less the carpet cleaning cost, plus \$50.00 for the promised reimbursement would be sent to the Tenant. On February 14, 2012, the Tenant was told that a cheque was ready and a cheque for \$633.00 was

returned to the Tenant by mail and subsequently cashed by the Tenant. The amount returned did not include the promised reimbursement of the \$50.00. The Tenant argues that since the security deposit was not returned within 15 days of the end of the tenancy, which the Tenant argues ended on January 27, 2011, the Landlord is obligated to return double the security deposit to the Tenant and failed to do so. The Tenant claims return of double the security deposit plus the promised reimbursement of \$50.00.

The Landlord argues that since the carpets still required cleaning and was completed on January 31, 2012, the tenancy did not end until that date and that the Landlord is therefore within the 15 day deadline for the return of the deposit. The Landlord does not dispute that the Tenant was promised reimbursement of \$50.00 and did not receive this amount with the returned security deposit.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Section 37 of the Act provides that a tenant must vacate the rental unit by the end of the tenancy and must return the keys to the unit.

By virtue of returning the keys to the Landlord, the Tenant relinquished possession of the unit, albeit earlier than planned and considering the intention of the Act, I find that the tenancy legally ended at this point. Although the Landlord argues that the tenancy continued until the date that the carpet was steam cleaned, I find that this act by the Landlord does not operate to extend a tenancy any longer than the date the Landlord obtains possession. Further, the Parties agreed that the Landlord would clean the carpet and as a result of this agreement, when this cleaning may occur is no longer the responsibility of the Tenant.

Based on the undisputed evidence of the Parties, I find that the Landlord did not return the security and pet deposit to the Tenant within the 15 days of the end of the tenancy as required by the Act and as a result, the Landlord is required to pay the Tenant double the security deposit of **\$1,550.00**. I further find, based on the undisputed evidence of the Parties, that the Landlord failed to pay the Tenant the **\$50.00** reimbursement as promised and that the Tenant is therefore entitled to this amount. As the Tenant has been successful with the application, I find that the Tenant is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,650.00**. From this amount, I deduct the agreed amount of **\$112.00** for the cost of cleaning the carpet plus **\$633.00** already paid to the Tenant and I order the Landlord to return to the Tenant the remaining amount of **\$905.00**.

Conclusion

I Grant the Tenant an Order under Section 67 of the Act for the amount of **\$905.00**. 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*.

Dated: April 18, 2012.

Residential Tenancy Branch