



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 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; and
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?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy began on June 15, 2011 and ended on March 31, 2012. Rent in the amount of \$1,200.00 was payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$600.00. The Parties conducted a “walk through” however no move-in inspection report was completed with a copy provided to the Tenants. The Tenant states that the forwarding address was provided in writing to the Landlord on March 31, 2012 by leaving a letter in the envelope with the unit keys and placing the envelope in the Landlord’s mailbox.

The Landlord states that no forwarding address was received and that the keys were found alone in the mailbox or paper box on approximately April 2 or 3, 2012. The

Landlord confirms that no move-in condition inspection report was completed and that the Landlord received the Tenant's application for dispute resolution by registered mail date stamped June 11, 2012. The Landlord submits that the Tenants left the unit unclean and damaged. It is noted that the Landlord did not make an application to claim for any damages to the unit or to claim against the security deposit. The Tenant states that the Landlords, who live next door to the unit, were not at home on March 31, 2012 and that upon checking again the next day, the Landlords were still not home.

Analysis

Section 23 of the Act requires that upon the start of a tenancy, a landlord and tenant must together inspect the condition of a rental unit on the possession date for that unit, or on another mutually agreed date. Section 24(2) of the Act further provides that where a Landlord does not complete and give the tenant a copy of a condition inspection report, the right to claim against that deposit for damage to the residential property is extinguished.

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.

Based on the undisputed evidence of the Parties, I find that no move-in inspection was conducted or completed and that the Landlord's right to claim against the security deposit has therefore been extinguished. Although the Landlord claims that no forwarding address was provided by the Tenant, I find the Tenant's evidence to be more persuasive than the Landlord's and I accept that the Tenants did provide the forwarding address in writing on March 31, 2012.

As the Landlord failed to make an application for dispute resolution and failed to return the security deposit, I find that the Tenant is entitled to return of double the security

deposit in the amount of \$1,200.00. As the Tenant has been successful with its application, I find that the Tenant is also entitled to return of the \$50.00 filing fee for a total entitlement of **\$1,250.00**.

The Landlord is at liberty to make an application for dispute resolution in relation to any damages the Tenants may have caused to the unit.

Conclusion

I Grant the Tenant an Order under Section 67 of the Act for the amount of **\$1,250.00**. 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: August 02, 2012.

Residential Tenancy Branch