



Dispute Resolution Services

Page: 1

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 an order for the return of double the security deposit and the pet damage deposit retained by the landlord.

Although served with the Notice of Hearing and application by registered mail sent on September 10, 2012, the landlord did not appear and the hearing proceeded in the absence of the landlord.

Issue(s) to be Decided

Is the tenant entitled to the return of double the security deposit and pet damage deposit pursuant to section 38 of the Act?

Background and Evidence

The tenant testified that the tenant had moved into the unit on January 15, 2012 and paid a security deposit of \$650.00 and pet damage deposit of \$650.00. The tenant testified that they moved out of the unit on August 17, 2012 and provided a written forwarding address on August 17, 2012. The tenant testified that after the forwarding address was given to the landlord, the landlord sent them a cheque for the return of the security deposit and pet damage deposit for \$1,300.00. However, the cheque was returned NSF. The tenant submitted copies of the cheque and the bank notification that the funds failed to clear.

The tenant testified that the landlord sent a replacement cheque, for \$1,300.00, which they received on October 1, 2012 and which they successfully cashed shortly thereafter.

The tenant is now seeking an additional \$650.00 for the security deposit and an additional \$650.00 for the pet damage deposit in compensation for the fact that the landlord failed to return their deposits within the required 15 days.

Analysis

With respect 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 tenant's written forwarding address has been received, 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, the landlord may not make a claim against the security deposit or any pet damage deposit, and must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find that the tenant's security and pet damage deposits were returned by the landlord, but that this did not occur within the required 15 days after the end of the tenancy and receipt of the written forwarding address. Therefore I find that, under the Act, the tenant is entitled to additional compensation of \$1,350.00, including an \$650.00 for the double the security deposit, \$650.00 for double the pet damage deposit and the \$50.00 fee paid by the tenant for this application.

I hereby issue a monetary order to the tenant in the amount of \$1,350.00. 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.

Conclusion

The tenant was successful in proving entitlement for \$1,350.00 representing double the deposits and the cost of filing the application and was issued a monetary order.

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: November 05, 2012.

Residential Tenancy Branch