



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not the tenant has established a claim for return of double the \$3500.00 security/pet deposit, and whether to order recovery of the filing fee.

Background and Evidence

The applicant testified that:

- This tenancy began on November 1, 2011, and a security deposit and pet deposit totaling \$3500.00 was paid on September 23, 2011.
- This tenancy ended on July 1, 2012 and on that same date a forwarding address in writing was sent to the landlord by registered mail.
- To date the landlord has failed to return any of the deposit and therefore he is requesting an order for return of double the deposit.

The respondent testified that:

- They attempted to return the tenants full security deposit and pet deposit totaling \$3500.00 by registered mail that was mailed on September 20, 2012.(See copies of the registered mail receipts in the file)
- The registered mail was returned marked refused by recipient.

- Further they subsequently had a dispute resolution hearing and at that hearing they were awarded a total of \$1580.00 against the tenant.
- He therefore believes that the security deposit should not be doubled and that the previous award should be deducted from the security/pet deposits before they are returned.

Analysis

At the dispute resolution hearing I mistakenly stated that the landlord did not attempt to return the security deposit within the 15 day time limit set out under the act, however after reviewing the evidence is my finding that he did attempt to return the deposits within the time limit.

The tenant testified at a forwarding address in writing was sent to the landlord by registered mail on July 1, 2012.

Documents sent by registered mail are considered served five days later and therefore those documents are considered to have been served by July 6, 2012.

As a result the landlord was required to return the deposits by July 21, 2012 and in this case the landlords have supplied a copy is a registered mail receipts that shows that the landlords mailed the deposits on July 20, 2012, 1 day before the time limit expired.

Therefore it is my finding that the landlord is not required to return double the security deposit.

Secondly section 72(2)(b) of the Residential Tenancy Act states:

(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Therefore since the tenant has been ordered to pay \$1580.00 to the landlord, the landlord has the right to deduct at amount from the security/pet deposit due to the tenant.

Therefore since at the hearing the landlord stated that he does want to deduct that amount from the security/pet deposit, the balance owing to the tenant is \$1920.00.

Further since it's my finding that the landlord attempted to return the security/pet deposits to the tenant by registered mail that was refused by the tenant, I will not allow the tenants request for recovery of the filing fee.

Conclusion

I have issued an order for the landlords to pay \$1920.00 to the tenant, and the remainder of the claim is dismissed without leave to reapply.

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 17, 2012.

Residential Tenancy Branch