



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Viewmount Crest Suites
and [tenant name suppressed to protect privacy]

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 the 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. The Landlord confirmed that he was prepared to proceed with the hearing, despite an earlier submission seeking an adjournment.

Issue(s) to be Decided

Is the Tenant entitled to return of double the security deposit?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The following are undisputed and relevant facts: The tenancy started on May 1, 2012 and ended on June 30, 2013. At the onset of the tenancy the Landlord collected \$375.00 as a security deposit. No move-in or move-out inspection reports were completed. The Landlord received the Tenant’s forwarding address on either May 30, 2012 or June 30, 2013. The Landlord returned \$305.00 to the Tenant after receiving the Tenant’s application

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. As the Landlord failed to complete a move-in report, I find that the Landlord's right to claim against the security deposit for damages to the unit 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.

As the Landlord failed to return the security deposit to the Tenant and did not make an application to claim against the deposit, I find that the Landlord is required to return **\$750.00** to the Tenant. As the Tenant has been successful with its application, I find that the Tenant is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$800.00**. Deducting the **\$305.00** already returned to the Tenant leaves **\$495.00** owed to the Tenant.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$495.00**. 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: November 25, 2013

Residential Tenancy Branch

