



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, FF*

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit and for the recovery of the filing fee.

The landlord was served with the notice of hearing and responded with her rebuttal and a letter stating that she was unable to attend the hearing and did not mind if the hearing was conducted in her absence, using her submission as her rebuttal to the tenant's claim. Accordingly the hearing continued in the landlord's absence. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit and the filing fee?

Background and Evidence

The tenancy began in June 2012 and ended on July 14, 2013. The monthly rent was \$900.00. At the start of the tenancy, the tenant paid a security deposit of \$450.00. This landlord purchased the rental unit from the previous owner in September 2012 and assumed the tenancy along with the security deposit.

The tenant stated that he moved out in response to a verbal notice to end tenancy for landlord's use of property. The tenant provided his forwarding address to the landlord via text message on July 14, 2013 and then later on in writing on July 17, 2013. The landlord's submission contained a copy of the tenant's text message.

The tenant stated that at the time the parties did a move out inspection, the tenant agreed to a deduction of \$125.00 from the security deposit for damage that he took responsibility for. The tenant stated that the landlord was supposed to return \$325.00 to the tenant at the forwarding address provided to the landlord. As of August 20, 2013, the tenant had not received the balance of the security deposit and made this application.

The landlord filed a statement of her claims against the tenant for damage to the unit.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$450.00 and is obligated under section 38 to return double this amount (\$900.00) plus interest on the base deposit (\$0.00). Since the tenant has proven his claim, he is also entitled to the recovery of the filing fee (\$50.00). The tenant has established a total entitlement of \$950.00.

During the hearing, the tenant agreed to a deduction of \$125.00 and therefore his entitlement will be reduced in this amount. I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$825.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

In regards to the landlord's claim relating to loss that she may have suffered, I am not able to either hear or consider the landlord's claim during these proceedings as this hearing was convened solely to deal with the tenant's application.

Conclusion

I grant the tenant a monetary order for **\$825.00**.

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 28, 2013

Residential Tenancy Branch