



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, 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 the security deposit - Section 38; and
2. A Monetary Order for compensation – Section 67.

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?

Background and Evidence

The tenancy began on September 1, 2011 and ended on February 4, 2013 when the Tenant was arrested and admitted to a hospital. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$375.00. The Parties mutually conducted a move-in inspection and completed a report.

The Tenant states that no offer for a move-out inspection was provided to the Tenant. The Landlord states that on February 4, 2013 the Tenant’s parents conducted an inspection of the unit with the Landlord and signed an agreement with the Landlord to pay for damages to the unit on the condition that the Landlord waive any rents owing from the Tenant. The Landlord states that the security deposit was retained by the agreement of the parents. The Landlord states that the parents did not provide any authorization by the Tenant to deal with the security deposit. The Landlord did not provide a copy of this agreement as evidence.

The Tenant states that no authorization was provided to the Landlord to retain the security deposit. The Tenant states that the forwarding address was provided to the Landlord in writing at the end of March 2013 and that this forwarding address was his

parent's residence. The Landlord states that she did not receive any letter from the Tenant and did not make an application for dispute resolution to claim against the security deposit. The Tenant claims return of double the security deposit.

Analysis

Section 38 of the Act provides that a landlord may retain an amount from a security deposit or a pet damage deposit if, at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant. This section also 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 that the Tenant did not authorize his parent to deal with the security deposit, I find that the Landlord did not have any authorization to retain the security deposit.

Given the Landlord's evidence that no forwarding address was received from the Tenant, I find that the Tenant did not provide forwarding address as states but that as of today the Landlord now has the forwarding address. Based on the Landlord's evidence, I find on a balance of probabilities that any liability of the Tenant for damages to the unit and unpaid rents have been met. I therefore order the Landlord to return the security deposit of \$375.00 plus zero interest forthwith to the Tenant ensuring that the Tenant receives this amount on or before January 3, 2013. Should the Tenant fail to receive this amount, the Tenant has leave to reapply for return of double the security deposit.

Conclusion

I order the Landlord to return the security deposit plus interest to the Tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: December 19, 2013