



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an application by the tenant for payment of double the security deposit. Both parties appeared and had an opportunity to be heard.

The landlords had filed evidence with the RTB but had not given a copy to the tenant. Accordingly, that written material cannot be considered by the arbitrator.

Issue(s) to be Decided

Is the tenant entitled to a monetary order and, if so, in what amount?

Background and Evidence

This tenancy commenced July 1, 2012 and ended July 30, 2013. The monthly rent of \$950.00 was due on the first day of the month. At the start of the tenancy the tenant paid a security deposit of \$450.00. When she got a cat she paid a pet damage deposit of \$150.00. A move-in condition inspection report was not completed nor was a move-out condition inspection report.

The tenant gave her forwarding address in writing to the landlord on July 30, 2013.

On August 1 the landlords mailed the tenant a cheque in the amount of \$501.90 having deducted \$123.90, the amount they paid a cleaning company for a partial cleaning of the rental unit.

Analysis

Section 23 of the *Residential Tenancy Act* provides that at the beginning of every tenancy the landlord and tenant must complete a move-in condition inspection report in accordance with the regulation. Section 24 sets out the consequences for both parties if the report is not completed. For landlords the consequence is that a landlord's right to claim against a security deposit or pet damage deposit is extinguished.

Section 38(1) 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 either repay the security deposit to the tenant or file an application for

dispute resolution claiming against the deposit. Section 38(6) provides that if a landlord does not comply with section 38(1), the landlord must pay the tenant double the amount of the security deposit. The legislation does not allow any flexibility on this issue.

A landlord who has not complied with section 23 does not have the option of filing an application claiming against the deposit once they receive the tenant's forwarding address in writing; they can only return the security deposit within the fifteen day period or be subject to the section 38(6) penalty.

I find that the tenant is entitled to an order that the landlords pay her the sum of \$748.90, representing double the security deposit and pet damage deposit less the payment already made by the landlords of \$501.10 and I grant the tenant a monetary order in that amount.

Although the landlords' right to claim against the security deposit was extinguished by section 24 the landlords' right to claim for damages was not. This order does not prevent the landlords from filing a separate application for dispute resolution against the tenant for a monetary order for any damages or cleaning costs that may be proven at that hearing.

Conclusion

A monetary order has been made in favour of the tenant. If necessary, this order may be filed in the Provincial 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: January 07, 2014

Residential Tenancy Branch

