



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an application by the tenant seeking the return of double their security deposit. The tenant had applied to deal with several issues but confirmed that the only matter outstanding as of today's hearing was the security deposit. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

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

Background and Evidence

The tenancy began on or about May 1, 2013. Rent in the amount of \$600.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$300.00.

The tenant gave the following testimony: The tenant stated that she has had no contact with the landlord since being evicted. The tenant stated that she did not provide her forwarding address in writing.

The landlord gave the following testimony: The landlord stated that tenant has not spoken to her since she moved out and has not provided her forwarding address. The landlord stated that the unit is badly damaged and will require far more than the deposit to pay for the repairs. The landlord stated she didn't return the deposit because of the damages and thought this hearing would address that.

Analysis

Return of security deposit and pet damage deposit

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

(2) Subsection (1) does not apply if the tenant's right to the return of a security deposit or a pet damage deposit has been extinguished under section 24 (1) [*tenant fails to participate in start of tenancy inspection*] or 36 (1) [*tenant fails to participate in end of tenancy inspection*].

(3) A landlord may retain from a security deposit or a pet damage deposit an amount that

(a) the director has previously ordered the tenant to pay to the landlord, and

(b) at the end of the tenancy remains unpaid.

(4) A landlord may retain an amount from a security deposit or a pet damage deposit if,

(a) 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, or

(b) after the end of the tenancy, the director orders that the landlord may retain the amount.

(5) The right of a landlord to retain all or part of a security deposit or pet damage deposit under subsection (4) (a) does not apply if the liability of the tenant is in relation to damage and the landlord's right to claim for damage against a security deposit or a pet damage deposit has been extinguished under section 24 (2) [*landlord failure to meet start of tenancy condition report requirements*] or 36 (2) [*landlord failure to meet end of tenancy condition report requirements*].

(6) If a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

(7) If a landlord is entitled to retain an amount under subsection (3) or (4), a pet damage deposit may be used only for damage caused by a pet to the residential property, unless the tenant agrees otherwise.

(8) For the purposes of subsection (1) (c), the landlord must use a service method described in section 88 (c), (d) or (f) [*service of documents*] or give the deposit personally to the tenant.

The tenant did not meet their obligation under the Act and provide the landlord with their forwarding address so they are not entitled to the doubling provision. The tenant stated during the hearing she was without a forwarding address for several months but has confirmed it is the one listed on her application. The landlord confirmed service of the hearing package by registered mail and is now aware of the tenants forwarding address. The tenant is entitled to the original \$300.00 security deposit. I order that the landlord return the \$300.00 security deposit within 15 days of receipt of this decision.

As for the monetary order, I find that the tenant has established a claim for \$300.00. I grant the tenant an order under section 67 for the balance due of \$300.00. This order

may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenant is granted a monetary order for \$300.00.

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: February 13, 2014

Residential Tenancy Branch

