



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 scheduled in response to the tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / compensation reflecting the double return of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on or about July 01, 2013. Monthly rent was \$700.00, and a security deposit of \$350.00 was collected.

Pursuant to section 49 of the Act which speaks to **Landlord's notice: landlord's use of property**, the landlord issued a 2 month notice to end tenancy dated September 01, 2013. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is November 01, 2013. The reason identified on the notice in support of its issuance is as follows:

The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

It is understood that the tenant vacated the unit in early October 2013, however, there is some dispute around the specific date. There is also some dispute around whether and / or how the parties implemented the statutory provisions set out in section 51 of the Act which speaks to **Tenant's compensation: section 49 notice**. However, neither of the two aforementioned matters is currently before me.

By letter dated October 10, 2013, the tenant informed the landlord of her forwarding address for the purposes of repayment of her security deposit. To date, however, no portion of the security deposit has been repaid to the tenant.

Analysis

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section 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 or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

In the circumstances of this dispute, I find that the landlord neither repaid the security deposit, nor filed an application for dispute resolution within either 15 days after receiving the tenant's forwarding address in writing, or 15 days after the date when the tenancy actually ended. Accordingly, I find that the tenant has established entitlement to compensation reflecting the double return of the security deposit, in addition to recovery of the filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$750.00** [(\$350.00 x 2) + \$50.00]. Should it be necessary, this order may be served on the landlord, 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: February 24, 2014

Residential Tenancy Branch

