



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant and the landlord.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began on May 1, 2009 as a 1 year fixed term tenancy that was renewed in 2010, 2011, and 2012 and then converted to a month to month tenancy beginning May 1, 2013. At the end of the tenancy the monthly rent was \$1,190.00 due on the 1st of each month. The parties agree the tenant paid a security deposit of \$575.00 and a pet damage deposit of \$575.00.

The tenant submits that she vacated the rental unit on December 18, 2013 and that she provided the landlord with her forwarding address by email on December 17, 2013. The landlord did not dispute these dates. The parties agree the landlord completed a move out inspection several weeks after the tenant vacated the unit without the tenant. The tenant submits that she agreed the landlord could do the inspection without the tenant in attendance.

The landlord submits that due to the condition of the rental unit and the non-payment of the electricity bill she retained amounts to cover these expenses and returned a cheque to the tenant in the amount of \$506.99 on January 28, 2014. The landlord confirms the cheque has not been cashed. The tenant submits that she did not receive a cheque from the landlord at all.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

As the tenant vacated the rental unit on December 18, 2014 I find that the tenant relinquished possession of the rental unit and the tenancy ended on that date. As the landlord did not dispute receipt of the tenant's forwarding address on December 17, 2014.

Therefore, I find that the landlord had until January 2, 2014 to either file a claim against the deposits held or return both deposits in full to the tenant, to be compliant with Section 38(1). As the landlord failed to return any funds by this date I find the tenant is entitled to double the amount of both deposits, pursuant to Section 38(6).

I note that this decision is based solely on the tenant's Application for Dispute Resolution and does not impact the landlord's right to file a claim against the tenant for any losses she feels she may have suffered as a result of the tenancy. However, at the end of the hearing the tenant agreed to reduce any award to her by \$363.01 for the electricity bill that the landlord has already paid.

While I make no rulings or findings in regard to the outstanding cheque in the amount of \$506.99, I note that if the cheque is cashed by the tenant at any time this will partially satisfy the amounts owed to the tenant.

Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,986.99** comprised of \$2,300.00 double the amounts of the pet damage deposit and security deposit and the \$50.00 fee paid by the tenants for this application less \$363.01 for the electrical bill.

This order must be served on the landlord. If the landlord fails to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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: June 10, 2014

Residential Tenancy Branch

