



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, MNDC, FF

Introduction

This Dispute Resolution hearing was convened to deal with an Application by the tenant seeking the return of the security deposit retained by the landlord.

Both parties were present at the hearing. At the start of the hearing introductions were made and the hearing process explained. The participants had an opportunity to submit evidence prior to this hearing and to present affirmed oral testimony during the hearing. I have considered the affirmed testimony and evidence that was properly served.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit under section 38 of the Act?

Background and Evidence

The tenancy began on June 1, 2013. The rent was \$950.00 per month and a security deposit of \$475.00 had been paid. The tenancy ended on December 31, 2013.

The tenant provided the landlord with their written forwarding address at the end of January 2014. The tenant testified that the landlord only refunded \$100.00 of the security deposit and failed to return the remaining \$375.00 of the security deposit within 15 days, after the tenancy ended and the written forwarding address was given.

The landlord acknowledged that the tenant did not give written permission to the landlord allowing them to keep part of the tenant's security deposit. The tenant seeks a refund of double the security deposit minus the \$100.00 already repaid.

Analysis

Section 38 of the Act provides that a security deposit or pet damage deposit must be refunded to the tenant within 15 days after the end of the tenancy and the date that the forwarding address was received, whichever is later.

In the alternative, if the landlord wants to retain the deposit to satisfy a debt, a claim must be made by filing an application for Dispute Resolution, within 15 days after the end of the tenancy and receipt of the forwarding address was received.

I accept the testimony and evidence verifying that that the written forwarding address was provided to the landlord at the end of January 2014. I find that \$375.00 of the security deposit was not returned within the 15-day deadline under the Act and only \$100.00 was refunded.

Based on the evidence and the testimony, I find that, at the end of the tenancy, the tenant did not give the landlord written permission to keep any of the deposit, nor did the landlord subsequently make an application seeking an order to keep the deposit within the 15-day deadline to do so.

Section 38(6) provides that, if a landlord does not comply with the Act by refunding the deposit or making application to retain it within 15 days, 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 matter before me, I find that under section 38, this tenant is entitled to be paid double the remaining \$375.00 security amounting to \$750.00, plus the \$50.00 cost of the application, to which the tenant is entitled.

I hereby issue a monetary order for \$800.00 to the tenant. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) if unpaid.

Conclusion

The tenant is successful in the application and is awarded a monetary order for a refund of double the portion of the security deposit wrongfully retained by the landlord.

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: July 02, 2014

Residential Tenancy Branch

