



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Harbour Management Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC MNSD FF

Introduction

This hearing dealt with an application by the tenant for double recovery of the security deposit. The tenant and an agent for the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

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

Background and Evidence

The tenancy began on April 16, 2013 as a fixed-term tenancy to end on April 30, 2014. At the outset of the tenancy the tenant paid the landlord a security deposit of \$625.

On January 19, 2014 the tenant informed the landlord that he was vacating the rental unit by March 1, 2014. The tenant later revised his move-out date to February 28, 2014.

The landlord and the tenant carried out a move-out inspection and completed a condition inspection report on February 22, 2014. The tenant provided the landlord with his written forwarding address on the condition inspection report, on that date.

On March 20, 2014 the tenant received a cheque from the landlord for \$500. The cheque was dated March 10, 2014. The envelope in which the cheque was sent did not have a clear date stamp to show when it was mailed.

The tenant stated that he did not agree in writing for the landlord to withhold any portion of the security deposit. The tenant acknowledged that he had discussed whether the landlord could withhold a portion of the deposit as liquidated damages, but nothing was decided.

The landlord's agent stated that the owner spoke directly to the tenant about the liquidated damages, and then the owner informed the agent that the tenant had agreed to let the landlord withhold \$125 of the deposit.

Analysis

Section 38 of the *Residential Tenancy Act* requires that 15 days after the later of the two dates of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the security deposit.

In this case, the tenant provided his forwarding address in writing on February 22, 2014. I find that as the tenant surrendered possession of the unit to the landlord on that date, the tenancy also ended on February 22, 2014.

It is not clear what date the landlord mailed the tenant the cheque for \$500, as the landlord sent the cheque by regular mail, and the date stamp on the envelope is not clear. However, even if I were to find that the landlord repaid \$500 of the security deposit on March 10, 2014, the date on the cheque, the landlord would still have failed to repay the security deposit within 15 days of February 22, 2014. Further, the landlord did not have the tenant's written consent to withhold any portion of the deposit and did not make an application to keep any portion of the deposit.

I therefore find that as the landlord failed to comply with section 38, the tenant is entitled to double recovery of the security deposit, in the amount of \$1250, less \$500 that the tenant has already received.

As his application was successful, the tenant is also entitled to recover the \$50 filing fee for the cost of his application.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$800. This order may be 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: July 15, 2014

Residential Tenancy Branch

