



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant for the return of double the security deposit pursuant to Sections 38(1) and (6) of the Act.

An agent for the Landlord and the Tenant appeared for the hearing and provided affirmed testimony as well as written evidence in advance of the hearing which I determined had been served by both parties in accordance with the Rules of Procedure. The Landlord confirmed receipt of the Tenant’s Application which was served personally pursuant to Section 89(1) of the Act.

At the start of the hearing the Landlord’s agent and Tenant agreed that a \$440.00 security deposit had been paid by both of the Co-Tenants named on the written tenancy agreement provided in written evidence.

The Landlord confirmed that the Tenants had vacated the rental suite on March 31, 2014, even though they were not supposed to leave until the end of April, 2014. The Landlord confirmed that the Tenants had paid for April, 2014 rent and that she had received the Tenant’s forwarding address on a written letter from the Tenant on March 16, 2014.

The Landlord submitted that the Tenants’ security deposit had not been returned because the Tenants had left damages to the rental suite and provided written evidence of this. However, I informed the Landlord that written evidence is not a substitute for an Application and the Landlord was required to make an Applicant pursuant to the Act in order to retain the Tenants’ security deposit.

The parties were informed of Section 38(1) of the Act in relation to the Landlord’s obligation to make an Application within 15 days after the latter of the day the tenancy ends (when the Tenant actually moved out) and the date the Landlord receives the

Tenant's forwarding address in writing. The parties were also informed of Section 38(6) of the Act which explains that if the Landlord fails to comply with Section 38(1) of the Act, the Tenant is entitled to double the amount of the deposit paid.

The Landlord took the above provisions of the Act into consideration and decided that it was better to resolve this matter through mutual agreement as follows.

Settlement Agreement

Pursuant to Section 63 of the Act, the arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

Both parties **agreed** to settle the Tenant's Application in full with the Landlord agreeing to return to the Tenants' security deposit to the Tenant named in the Application in the amount of **\$440.00**.

This agreement and order is fully binding on the parties and is in **full and final satisfaction of all the issues** associated with the tenancy. Therefore, no further Applications in respect to this tenancy can be made and this file is now closed.

The Tenant is issued with a Monetary Order in the amount of **\$440.90** which is enforceable in the Small Claims court if the Landlord fails to make payment in accordance with this agreement after receipt of this decision.

The parties are cautioned to retain evidence in relation to the steps taken to meet the above terms and conditions.

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: September 18, 2014