



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUMI HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application by the tenant for a monetary order for the return of double the security and pet damage deposits, and to recover the filing fee for the claim.

The tenant stated that the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on May 20, 2014. File as evidence is a copy of the customer receipt and the Canada post tracking report, which indicates the documents were successfully delivered on May 22, 2014. The landlord did not appear.

I find that the landlord has been duly served in accordance with the Act.

The tenant gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the tenant entitled to a monetary order for return of double the security and pet damage deposits?

Background and Evidence

The tenant paid a security deposit of \$445.00 and a pet damage deposit of \$445.00 on August 20, 2013. The tenant vacated the premises on March 31, 2014. Filed in evidence is a copy of the tenancy agreement.

The tenant testified that she provided her forwarding address to the landlord as it was written on the move-out condition inspection report that was completed at the end of the

tenancy. On the condition inspection report the tenant gave the landlord permission to retain the amount of \$50.00. Filed in evidence is a copy of the condition inspection report, which supports the testimony of the tenant.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the landlord is in breach of the Act.

There was also no evidence to show that the landlord had applied for arbitration, within 15 days of the end of the tenancy or receipt of the forwarding address of the tenant, to retain a portion of the security deposit or pet damage deposit.

The landlord has breached section 38 of the Act. The landlord is in the business of renting and therefore, has a duty to abide by the laws pertaining to residential tenancies.

The security deposit and pet damage deposit are held in trust for the tenant by the landlord. At no time does the landlord have the ability to simply keep the security deposit because they feel they are entitled to it or are justified to keep it.

The landlord may only keep all or a portion of the security deposit through the authority of the Act. Here the landlord only had the authority under the Act to keep the amount of \$50.00 as that amount was agreed to by the tenant. Therefore, I find that the landlord is not entitled to retain any other portion of the security deposit or pet damage deposit.

Section 38(6) provides that if a landlord does not comply with section 38(1), the landlord must pay the tenant double the amount of the security deposit and pet damage deposit. The legislation does not provide any flexibility on this issue.

Conclusion

Having made the above findings, I must order, pursuant to section 38 and 67 of the Act, that the landlord pay the tenant the sum of \$1,830.00, comprised of double the pet damage deposit (\$445.00) and security deposit (\$445.00) on the original amounts held and the \$50.00 fee for filing this Application.

The above monetary order is reduced by the amount of \$50.00, as the tenant agreed the landlord could retain that amount in the move-out condition inspection report. The tenant is given a formal order in the amount of **\$1,780.00**. The landlord must be served with a copy of this order as soon as possible. Should the landlord fail to comply with this order, the order may be filed in the small claims division of the Provincial 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: September 17, 2014

Residential Tenancy Branch

