



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

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

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the parties were permitted to present affirmed oral testimony and make submissions during the hearing.

Issue(s) to be Decided

Is the tenant entitled to double the security deposit pursuant to section 38 of the Act?

Background and Evidence

The tenancy began on February 1, 2014. The rent was \$1,400.00 and a security deposit of \$700.00 was paid. The tenancy ended on May 1, 2014, 2014 and the written forwarding address was provided to the landlord at that time.

The landlord sent the tenant a cheque for \$425.75, received by the tenant on May 13, 2014 and the landlord retained \$274.25. The tenant testified that the refund cheque for \$425.75 was not cashed. The tenant feels she was entitled to a full refund of \$700.00.

The tenant seeks a refund of double the security deposit as the deposit was not refunded within the 15-day deadline under the Act.

The landlord testified that the unit required carpet cleaning and the tenant was billed for unpaid utilities as well. The landlord also stated that they had refunded a portion of the tenant's deposit without delay.

Analysis

In regard to the return of the security deposits, I find section 38 of the Act states that, within 15 days after the later of the day the tenancy ends, and the date the landlord receives the written forwarding address, the landlord must either repay the security

deposit or apply for dispute resolution to claim against the security deposit. In this instance, the landlord repaid a portion of the deposit within the 15 days.

The Act states that the landlord can only retain a deposit without obtaining an order if the tenant agrees in writing it may be kept to satisfy a liability at the end of the tenancy. I find that the tenant did not give the landlord written permission to keep any part of the deposit, nor did the landlord make application for an order to keep the deposit.

Section 38(6) provides that If a landlord does not comply with the Act by refunding the deposit owed or making application to retain it within 15 days, the landlord must pay the tenant double the amount of the security deposit and pet damage deposit.

I find the landlord wrongfully retained \$274.25 of the security deposit beyond the 15-day deadline and this entitles the tenant to double the remaining deposit in the amount of \$548.50 plus the \$425.75 that was already offered by the landlord . Accordingly, I find that the tenant is entitled to a total monetary order for \$1,024.25, comprised of \$974.25 refund of the security deposit and the \$50.00 cost of the application.

In regard to the landlord's claim that they incurred costs for cleaning and utilities, I find that I am not able to hear the landlord's monetary claims because this hearing is solely to deal with the tenant's application for the refund of the security deposit.

I hereby issue a monetary order to the tenant in the amount of \$1,024.25. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The tenant is successful in the application and is awarded a monetary order for double the portion of the security deposit retained by the landlord beyond 15 days plus the remainder of the original deposit.

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: October 07, 2014

Residential Tenancy Branch