



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Northland Asset Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant.

The tenant submitted documentary evidence to confirm the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on January 30, 2015 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed. Canada Post tracking information confirms the landlord accepted this registered mail on February 4, 2015.

Based on the evidence of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for double the amount of all or part of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

Background and Evidence

The tenant testified the tenancy began on July 21, 2012 as a month to month tenancy for a monthly rent of \$950.00 due on the 1st of each month with a security deposit of \$475.00 paid. The tenant stated that when the tenancy ended on December 31, 2014 the rent was \$1,050.00.

The tenant confirmed that he had provided the landlord with his forwarding address 2 weeks prior to the end of the tenancy and that it was acknowledged as received by the

landlord on the date the move out condition inspection was completed (December 31, 2014). The tenant has provided a copy of the Condition Inspection Report.

The tenant acknowledges at the start of the tenancy he had agreed with the then landlord to have \$120.00 deducted for carpet cleaning at the end of the tenancy, so the landlord could hire his own carpet cleaner to complete the work.

I note that the Condition Inspection Report indicates that the landlord also wanted to deduct an additional \$168.00 in cleaning costs, however there is no signature on the Condition Inspection Report that indicates the tenant agrees to these additional deductions. I also note that there is no evidence before me that the landlord filed an Application for Dispute Resolution seeking to claim against the deposit.

The tenant provided a copy of a cheque dated January 15, 2015 in the amount of \$237.00.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit less any mutually agreed upon amounts or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Despite not being in writing and in the absence of any evidence or testimony to dispute the tenant's testimony, I accept that the tenant had authorized the landlord to withhold \$120.00 from the security deposit of \$475.00.

However, I find the landlord did not have consent from the tenant to withhold any other amounts from the security deposit and as such the landlord was required to return the balance of \$355.00 to the tenant or file an Application for Dispute Resolution no later than January 15, 2015 in order to comply with the requirements of Section 38(1).

Based on the undisputed evidence before me I find the landlord failed to comply with the requirements of Section 38(1) and the tenant is therefore entitled to receive double the amount of the balance of the security deposit.

I note that the tenant did testify that he had cashed the cheque for the amount of \$237.00 and as such, I have reduced the monetary award by this amount.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$523.00** comprised of \$710.00 double the balance of

the security deposit owed and the \$50.00 fee paid by the tenant for this application less the amount already received by the tenant.

This order must be served on the landlord. If the landlord fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: February 19, 2015

Residential Tenancy Branch

