



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Peace of Mind Landlord Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for a monetary order for a return of his security deposit and pet damage deposit, doubled, and for recovery of the filing fee paid for this application.

The tenant and landlord "CB" attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The tenant submitted documentary evidence showing that landlord "POM" was served with the tenant's application by registered mail. I therefore accept that the tenant served POM as required by section 89(1) of the Act, and the hearing proceeded against POM as well as CB.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, respond each to the other, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter- At the outset of the hearing, no issues were raised regarding service of the tenant's application or evidence; however, the landlord confirmed that he had not submitted his documentary evidence to the tenant. I therefore have excluded this evidence from consideration for the purposes of this decision, for failure to comply with the Rules by sending evidence to the applicant.

Issue(s) to be Decided

Is the tenant entitled to a monetary order, which includes his security deposit and pet damage deposit, doubled, and to recovery of the filing fee paid for this application?

Background and Evidence

The tenant submitted that the tenancy began on October 1, 2014, that he moved out of the rental unit on December 5, 2014, monthly rent was \$1800.00, and that he paid a security deposit and a pet damage deposit of \$900.00 each.

The tenant submitted further that he provided the landlord notice on November 30, 2014, that he was vacating the rental unit on or before December 31, 2014, that he paid full rent for December 31, 2014, attended a move-out inspection with the landlord's agent on December 5, 2014, and that as of the date of his application on December 21, 2014, the landlord failed to return either of the deposits or provide a move-out condition inspection report, despite repeated requests.

The tenant submitted further that he provided his written forwarding address on December 5, 2014, on the condition inspection report. The tenant submitted that the landlord returned the security deposit and pet damage deposit on January 15, 2015, but asserted that he is entitled to another \$1800.00 as the landlord failed to return the 2 deposits within 15 days of December 5, 2014, the last day of his tenancy.

The tenant's relevant documentary evidence included a copy of the written tenancy agreement and a copy of the notice of November 30, 2014, sent to the landlord informing them he was vacating the rental unit on or before December 31, 2014.

In response, landlord CB, the owner, submitted that POM represented him as a property manager until January 8, 2015, at which time their services were terminated.

The landlord submitted that POM informed him that the tenancy ended on December 31, 2014, and that he had 15 days from that date to return the security deposit and pet damage deposit, which he did.

Analysis

Under section 38(1) of the Act, a landlord is required to either return a tenant's security deposit and pet damage deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy. Section 38(6) of the *Act* states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the amount of their security deposit and pet damage deposit.

In this case, the decision hinges on the date the tenancy ended, as the tenant claims this date is December 5, 2014, the date he vacated the rental unit, and the landlord claims this date is December 31, 2014, the effective date provided by the tenant in his notice.

Section 44 of the Act provides for different ways in which a tenancy ends, one way being when a tenant provides written notice to the landlord in the approved form and another on the date a tenant vacates or abandons the rental unit.

In this case, I find that the tenant provided written notice in the approved form, signed and dated, on November 30, 2014, that he was vacating the rental unit on or before December 31, 2014, and that he paid monthly rent for December 2014. I accept that when the tenant provided notice to the landlord and paid the rent for December 2014, he retained the right of possession of the rental unit until December 31, 2014, whether he actually did or not, and the landlord then had no right to re-rent the rental unit or otherwise occupy the rental unit himself until after December 31, 2014. As the tenant retained the right to full possession for December 2014, it was his choice to vacate on any day during that month.

Due to the above, I find the tenancy ended on December 31, 2014, and that the landlord returned the tenant's security deposit and pet damage deposit within the required 15 days, when he did so on January 15, 2015.

I therefore find that the landlord complied with the Act, and that the tenant is therefore not entitled to double recovery of the amount of his security deposit and pet damage deposit. As this was the remaining part of the tenant's monetary claim, I dismiss his application, without leave to reapply.

Conclusion

The tenant's application is dismissed as I have found the landlord complied with the Act.

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: March 16, 2015

Residential Tenancy Branch

