



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, DRI, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security and pet deposits and for the recovery of the filing fee. The tenant also applied to dispute a rent increase that was not in compliance with the Regulations.

The landlord acknowledged receipt of evidence submitted by the tenant and filed evidence to show that she had sent her evidence to the tenant by registered mail on February 28, 2015. The tenant denied having received the landlord's evidence. I find that the tenant was served with the landlord's evidence pursuant to section 88 of the *Act*.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The notice of rent increase was served on the tenant on June 29, 2014 to be effective October 2014. Since the tenancy ended prior to the effective date of the rent increase, the tenant's application to dispute the increase is moot and accordingly dismissed.

Issue to be Decided

Did the tenant provide the landlord with his forwarding address in writing? Did the landlord return the deposits in a timely manner? Is the tenant entitled to the return of double the deposits? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on May 15, 2013 for a fixed term of one year. The tenant moved out on July 31, 2014 and provided the landlord with his forwarding address on that day. At the start of the tenancy, the tenant paid a security deposit of \$600.00 and a pet deposit of \$300.00. The monthly rent was \$1,200.00 payable on the 15th of each month and did not include the cost of electricity.

Through the tenancy the landlord would inform the tenant about his share of electricity and he would make an online payment directly to the billing company.

The parties carried out a move out inspection on July 31, 2014. The tenant signed in acknowledgment that no discrepancies were noted and that his deposits would be returned to him. On or about August 15, 2014, the tenant received a cheque from the landlord for the total amount of the deposits with a deduction of \$40.00 for the cost of electricity for the period of July 10 – July 31, 2014.

The tenant agreed that it was a reasonable deduction and that he owed this amount to the landlord. However the tenant stated that he did not agree to have this amount deducted off his deposits and that he had signed the move out inspection report which had no deduction noted on the report. The tenant is now making a claim for the return of double the entire security and pet deposits

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit and pet deposits or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. In this case, the tenant gave the landlord his forwarding address on July 31, 2014.

I find that the landlord returned the deposits to the tenant in a timely manner but failed to repay the entire amount of the deposits or make an application to retain a portion of the deposits within 15 days of receiving the tenant's forwarding address.

Therefore the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the deposits. The landlord held \$600.00 for a security deposit and \$300.00 for a pet deposit. Accordingly, the landlord must return \$1,800.00 to the tenant.

The tenant agreed that he has received \$860.00 and also agreed that he owes \$40.00 for the cost of electricity. Accordingly I find that the tenant has established a net claim of \$900.00.

The tenant has also applied for the recovery of the filing fee. Based on the testimony of both parties, I find that the landlord was entitled to the cost of electricity and made a reasonable deduction off the deposits. However, the landlord did so without the written permission of the tenant and therefore was not in compliance with s. 38. Given the disproportionate windfall that results from the landlord's minor procedural defect, I am exercising my discretion to not award the tenant the recovery of the filing fee.

Overall the tenant has established a claim of \$900.00. Accordingly, I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$900.00**.

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 17, 2015

Residential Tenancy Branch

