



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

This hearing dealt with an application by the tenant seeking the return of her security and pet deposit. Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing. Both parties confirmed that they submitted and exchanged their evidence in accordance with Section 89 of the Act.

Issue to be Decided

Is the tenant entitled to the return of her security and pet deposit as claimed?

Background and Evidence

The tenant's testimony is as follows. The tenancy began on April 1, 2014 and ended on September 1, 2014. The tenant was obligated to pay \$750.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$375.00 security deposit and a \$375.00 pet deposit. Move in condition inspection reports were conducted at move in and move out. The tenant stated that she filed for dispute resolution on September 9, 2014. The tenant stated that she provided her forwarding address in writing to the landlord on September 10, 2014. The tenant stated that the landlord returned \$225.00 but withheld the remaining \$525.00 without her consent.

The landlord stated that she received the tenants forwarding address after she was served the Notice of Hearing documents. The landlord stated that she would have gladly discussed the matter with the tenant but since the tenant filed an application, the landlord stated “let’s let the Arbitrator decide”. The landlord stated that she withheld the some of the deposits because the tenant damaged the fence and left the unit dirty.

Analysis

The tenant is seeking the return of the remaining \$525.00 from her deposits.

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

As the landlord has not filed an application or been given consent from the tenant to withhold any of the deposit, the landlord must return the \$525.00. It is worth noting that the doubling provision of the deposits pursuant to Section 38(6) of the Act was not available to the tenant as she filed for dispute resolution prior to giving the landlord her forwarding address in writing.

The tenant is also entitled to the recovery of her \$50.00 filing fee.

Conclusion

The tenant has established a claim for \$575.00. I grant the tenant an order under section 67 for the balance due of \$575.00. This order may be filed in the Small Claims 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: April 13, 2015

Residential Tenancy Branch

