



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- authorization to obtain a return of double her security and pet damage deposits pursuant to section 38; and
- authorization to recover her filing fee for this application from the landlords pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlords' agent (the agent) confirmed that she received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on September 18, 2014. The agent also confirmed that she received a copy of the tenant's written evidence. Pursuant to sections 88 and 89(1) of the *Act*, I find that the landlords were duly served with the above documents by the tenant. As the agent testified that she did not send the tenant a copy of the landlords' written evidence package, I have not considered that evidence.

At the commencement of the hearing, the tenant confirmed that she received \$1,000.00 of her deposits from the landlords on August 27, 2014. At the hearing, she lowered the amount of her requested monetary award from \$3,000.00 to \$2,050.00.

Issues(s) to be Decided

Is the tenant entitled to a monetary award equivalent to double the value of his security deposit as a result of the landlords' failure to comply with the provisions of section 38 of the *Act*? Is the tenant entitled to recover the filing fee for this application from the landlords?

Background and Evidence

This tenancy began as a one-year fixed term tenancy on March 12, 2011, and converted to a periodic tenancy at the end of the initial fixed term on April 1, 2012. Monthly rent was set at \$2,100.00, payable on the first of each month. The landlords

continue to hold \$500.00 from the security deposit of \$1,050.00 and pet damage deposit of \$450.00 paid on March 2, 2011.

On June 16, 2014, the tenant sent the agent an email advising her that she intended to end her tenancy by August 16, 2014. The agent confirmed receiving this email. Both parties agreed that the tenancy ended on August 15, 2014. The agent also confirmed that she received the tenant's forwarding address on August 21 or 22, 2014. Both parties agreed that the landlords returned \$1,000.00 of the tenant's deposits by way of a cheque a few days later. The landlords withheld the remaining \$500.00 from the deposits due to damage and repairs that the agent maintained arose during this tenancy.

The tenant applied for the recovery of double her deposits because the landlords did not return all of the tenant's deposits within 15 days of receiving the tenant's forwarding address, as is required by section 38 of the *Act*. The agent confirmed that the landlords did not apply for dispute resolution to retain any portion of the deposits, and did not have the tenant's written authorization to retain any portion of the deposits. The agent confirmed that the landlords have not filed any claim of their own with respect to this tenancy.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute. As noted above, the agent confirmed that she had authorization from the landlords to act on their behalf in this matter. The parties agreed to settle all of the issues in dispute between them on the following terms.

1. The landlords agreed to send a negotiable cheque in the amount of \$500.00 to the tenant by April 19, 2015.
2. Both parties agreed that this settlement agreement resolved all disputes arising out of this tenancy and further agreed that they will not commence any new applications or initiatives arising out of this tenancy.

Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the tenant's favour in the amount of \$500.00. I deliver this Order to the tenant in support of the above agreement for use in the event that the landlord(s) do not abide by the terms of the above settlement. The tenant is provided with these Orders in the above terms and the landlord(s) must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlord(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 16, 2015

Residential Tenancy Branch

