



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenant for return of double the security deposit. Both parties appeared and had an opportunity to be heard.

After the hearing some late evidence filed by the tenant was forwarded to me by clerical staff. That evidence has not been considered in the preparation of this decision.

Issue(s) to be Decided

Is the tenant entitled to a monetary order and, if so, in what amount?

Background and Evidence

This tenancy commenced September 1, 2013 and ended September 1, 2014. The monthly rent of \$2850.00 was due on the last day of the preceding month. The tenant paid a security deposit of \$1425.00.

On September 27, 2014, the tenant sent the landlord an e-mail advising of his forwarding address. Both parties testified that the landlord responded to the e-mail by setting out the reasons he was not going to return the security deposit and attaching photographs. There has been some discussion by the parties since but no agreement.

The tenant filed this application for dispute resolution on November 19, 2014 and served it by registered mail. As of the date of the hearing the landlord has neither filed an application for dispute resolution claiming against the security deposit or returned the deposit to the tenant.

Analysis

Section 38(1) of the *Residential Tenancy Act* provides that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit to the tenant or file an application for dispute resolution claiming against the deposit. In the present case, the landlord has done neither.

Section 38(6) provides that if a landlord does not comply with section 38(1), the landlord must pay the tenant double the amount of the security deposit. The legislation does not allow any flexibility on this issue.

I find that the tenant is entitled to an order that the landlord pay him the sum of \$2850.00, representing double the security deposit. I further order that as the tenant was successful on his application he is entitled to reimbursement from the landlord of the \$50.00 fee he paid to file it. Accordingly, I grant the tenants an order in the amount of \$2900.00.

As explained several times in the hearing this order does not prevent the landlord from filing a separate application for dispute resolution against the tenant for a monetary order for any damages, cleaning costs or loss of rental income that may be proven at that hearing.

Conclusion

A monetary order in the amount of \$2900.00 has been made in favour of the tenant. If necessary 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: May 20, 2015

Residential Tenancy Branch

