



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remax Little Oak Realty Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenant for the return of double her security deposit. Both parties participated in the conference call hearing. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issue to be Decided

Is the tenant entitled to return of double the deposit as claimed?

Background, Evidence

The tenants' testimony is as follows. The tenancy began on August 1, 2014 and ended on October 31, 2014. The tenants were obligated to pay \$1200.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$600.00 security deposit. The tenant stated that the landlord returned \$500.00 of the deposit but withheld \$100.00 without her agreement. The tenant stated that she was only advised by the landlord that it was a move out fee after she had moved out. The tenant stated that she was never made aware of this. The tenant stated that she did not sign a "Form K" at any point.

The landlords' testimony is as follows. The landlord stated that the tenant was obligated to pay the Strata imposed charge as per the "Form K" agreement. The landlord stated that the tenant submitted an unsigned copy for this hearing but he has the signed copy in his office.

Analysis

The tenant provided documentation for consideration for this hearing, the landlord did not. The Tenant said she is applying for the return of double the security deposit as the landlord has not complied with the s. 38 of the *Residential Tenancy Act*.

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.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

As the landlord did not file an application to make a claim against the deposit or repay the tenant as stated above, I find that the tenant is entitled to the return of double the security deposit $\$600.00 \times 2 = \1200.00 minus the \$500.00 paid by the landlord for an award of \$700.00.

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

Conclusion

The tenant has established a claim for \$750.00. I grant the tenant an order under section 67 for the balance due of \$750.00. 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: July 13, 2015

Residential Tenancy Branch

