



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for a monetary order for return of all or part of the pet damage deposit or security deposit; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, despite being served with the Tenant's Application for Dispute Resolution and notice of this hearing by registered mail on March 8, 2015, no one for the landlord attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the tenant. The tenant testified that the landlord was served on that date and in that manner and was given the opportunity to provide evidence of such mailing after the hearing had concluded. The tenant has provided a copy of both sides of the Canada Post Registered Domestic Customer Receipt which is stamped by Canada Post on March 8, 2015, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

All evidence and testimony of the tenant is considered in this Decision.

Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlord for return of all or part of the security deposit?
- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for double the amount of the security deposit?

Background and Evidence

The tenant testified that this month-to-month tenancy began on April 1, 2013 and the tenant moved out of the rental unit on February 1, 2015. Rent in the amount of \$1,200.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. The landlord collected a security deposit from the tenant in the amount of \$600.00 prior to the commencement of the tenancy. No pet damage deposit was collected. No written tenancy agreement was prepared, and no move-in or move-out condition inspection reports were completed.

The tenant further testified that on February 2, 2015 the tenant gave the landlord a forwarding address in writing along with the keys to the rental unit. The tenant sent a text message to the landlord on February 26, 2015 asking if the tenant could pick up the security deposit, to which the landlord replied, "No and stop texting me." The tenant replied with a forwarding address, and has provided a photograph of the string of text messages. The tenant sent to the landlord a request for return of it on March 8, 2015 again with a forwarding address and notice of this hearing.

The tenant received in the mail from the landlord a cheque in the amount of \$300.00 on or about March 2, 2015. The tenant called the landlord who told the tenant that the rental unit wasn't clean enough and blinds were damaged, however the blinds were damaged at the outset of the tenancy, and the landlord has not served the tenant with an application for dispute resolution claiming against the deposit.

Analysis

The *Residential Tenancy Act* states that a landlord must return a security deposit or pet damage deposit in full to a tenant or make an application for dispute resolution claiming against the deposit(s) within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. If the landlord fails to do either, the landlord must be ordered to repay the tenant double.

In this case, I accept the undisputed testimony of the tenant that the landlord was provided with a forwarding address in writing on February 2, 2015. I have reviewed the evidentiary material and I am satisfied that the landlord received it again on February 26, 2015 and again with notice of this hearing. It is clear that the landlord received it prior to March 2, 2015 because the landlord returned \$300.00. A landlord is not permitted to keep any portion of a deposit without an order or the written consent of the tenant.

The tenant is entitled to double recovery, or \$1,200.00, less the \$300.00 already returned to the tenant.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$950.00.

This order is final and binding and may be enforced.

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 23, 2015

Residential Tenancy Branch

