



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in repose to the tenant's application for the return of double the security deposit and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on December 10, 2014. Mail receipt numbers were provided by the tenant in evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the tenant entitled to recover double the security deposit?

Background and Evidence

The tenant testified that this tenancy started on September 01, 2012 for a term of one year. The tenancy has since reverted to a month to month tenancy. Rent for this unit was \$900.00 per month. The tenant paid a security deposit of \$450.00 and a pet deposit of \$225.00 a week prior to the tenancy starting.

The tenant testified that she vacated the rental unit on August 31, 2014 after providing the landlord with proper notice to end the tenancy. The tenant testified that the landlord completed a move in condition inspection report with the tenant at the start of the tenancy; however, despite the landlord knowing when the tenant was vacating the landlord did not give the tenant at least two opportunities to attend a move out inspection. The tenant testified that she did not give the landlord written or verbal permission to keep all or part of the security or pet deposit. The tenant testified that she gave the landlord her forwarding address in writing prior to the end of the tenancy on August 16, 2014. The tenant testified that the landlord has returned \$280.00 of the security deposit to the tenant at her new address on September 05, 2014.

The tenant testified that she cleaned the unit and the carpets and the unit was left spotless. Later the landlord rang the tenant and said the unit was messy. The tenant offered to come back to the unit so the landlord could show the tenant any mess and do the move out inspection but the landlord would not let the tenant return. The landlord later did the move out inspection without the tenant and the tenant disputed the landlord's comments on this report. As the landlord did not return all the security and pet deposit the tenant seeks to recover double the deposits and the \$50.00 filing fee.

Analysis

The landlord did not appear at the hearing to dispute the tenant's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I have carefully considered the tenant's undisputed documentary evidence and sworn testimony before me.

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenant's forwarding address in writing to either return the security and pet deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security and pet deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security and pet deposit to the tenant.

Based on the above and the evidence presented I find that this tenancy ended on August 31, 2014. I am satisfied that the landlord received the tenant's forwarding address on August 16, 2014 as the landlord did return part of the security deposit and sent the cheque and the condition inspection report to the tenant at that address. As a result, the landlord until September 15, 2014 to return all the tenant's security and pet deposit or file an application to keep all or part of the deposits. I find the landlord did not return all the security deposit or the pet deposit and has not filed an application to keep them. Therefore, I find that the tenant has established a claim for the return of double the security and pet deposit to the sum of **\$1,350.00** less the amount of **\$280.00** which was returned, pursuant to section 38(6)(b) of the *Act*.

The tenant is also entitled to recover the filing fee of **\$50.00** from the landlord pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$1,120.00**. The Order must be served on the respondent. If the respondent fails to comply with the Order, the Order is enforceable through the Provincial Court 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

