



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* ("Act") for:

- authorization to obtain a return of double the amount of his security deposit, pursuant to section 38;
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions, and to call witnesses.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application"). In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's Application.

Issues to be Decided

Is the tenant entitled to a monetary award equivalent to double the value of the security deposit as a result of the landlord's 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 landlord?

Background and Evidence

Both parties agreed that this tenancy began on September 1, 2014 and ended on December 31, 2014. The landlord confirmed that as per the written tenancy agreement, this was a fixed term tenancy of one year after which it would have transitioned to a month-to-month tenancy. Monthly rent in the amount of \$750.00 was payable on the

first day of each month. A security deposit of \$375.00 was paid by the tenant and the landlord continues to retain this deposit. The landlord confirmed that no move-in or move-out condition inspection reports were completed for this tenancy.

The landlord testified that he received a letter on January 27 or 28, 2015 with the tenant's written forwarding address. A copy of this letter was provided for this hearing. The tenant confirmed that he sent this letter by way of registered mail to the landlord around January 25, 2015. The landlord confirmed that he did not receive written permission from the tenant to retain any amount from the security deposit. The landlord stated that he did not file an application for dispute resolution to retain any amount from the tenant's security deposit.

The tenant seeks the return of double the amount of his security deposit, totalling \$750.00 because the landlord failed to return the deposit in full or file an application within 15 days after the tenant's written forwarding address was provided to the landlord. The landlord stated that he did not return the tenant's security deposit because the tenant failed to remove a wall and repair damages to that area at the end of the tenancy and also failed to pay for rental loss arising from a breach of the fixed term tenancy agreement.

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.

Both parties agreed to the following final and binding settlement of all issues with respect to this entire tenancy:

1. The landlord agreed to pay the tenant \$506.25 by way of a money order to be sent out by registered mail by no later than July 29, 2015;
2. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenant's Application at this hearing and any issues arising out of this tenancy;
3. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the landlord's potential claims arising out of this tenancy;

4. Both parties agreed that they will not initiate any further claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise a full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties testified at the hearing that they understood and agreed to the above settlement terms, free of any duress or coercion. Both parties testified that they understood that the above settlement terms were legal, final, binding and enforceable, settling all aspects of this dispute and arising out of this tenancy.

Conclusion

In order to implement the above settlement reached between the parties and as advised to both parties during the hearing, I issue a monetary Order in the tenant's favour in the amount of \$506.25. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord fails to abide by condition #1 of the above settlement agreement. The tenant is provided with this Order in the above terms and the landlord must be served with a copy of this Order in the event that the landlord fails to abide by condition #1 of the above settlement agreement. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 29, 2015

Residential Tenancy Branch

