



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, O

Introduction

A hearing was conducted by conference call in the presence of two representatives of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the tenant by mailing, by registered mail to the forwarding address provided by the tenant on March 11, 2015. The Act provides that the documents are deemed received 5 days later. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided:

The issue to be decided is whether the landlord is entitled to an order that the landlord retain the security deposit?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on August 1, 2014. The rent is \$1300 per month payable on the first day of each month. The tenant paid a security deposit of \$650 prior to the start of the tenancy.

On March 10, 2015 by Direct Request the landlord obtained a monetary order in the sum of \$2600 (rent for January 2015 and February 2015) and an Order for Possession on 2 days notice. The tenant has vacated the rental unit.

Analysis

Section 38(3) of the Residential Tenancy Act provides as follows:

Return of security deposit and pet damage deposit

38 (3) A landlord may retain from a security deposit or a pet damage deposit an amount that

- (a) the director has previously ordered the tenant to pay to the landlord, and
- (b) at the end of the tenancy remains unpaid.

Section 72(2) of the Act provides as follows:

Director's orders: fees and monetary orders

72 (2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

- (a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and
- (b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Analysis - Monetary Order and Cost of Filing fee:

The landlord has obtained a monetary order in the sum of \$2600. The landlord holds a security deposit of \$650. I determined the landlord is entitled to an order permitting the landlord to retain the security deposit thus reducing the amount owing under the monetary order of March 10, 2015.

Security Deposit:

I determined the security deposit totals the sum of \$650. I ordered the landlord may retain this sum thus reducing the amount outstanding under order dated March 10, 2015 to \$1950.

The respondent must be served with a copy of this Order as soon as possible.

The landlord must include this decision when attempting to enforce the order of March 10, 2015 in the Small Claims division of the Provincial 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: August 13, 2015

Residential Tenancy Branch

