



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FF MNDC MNSD

Introduction

This hearing dealt with (a) an application by the landlord for a monetary order and an order allowing retention of a portion of the security deposit; and (b) an application by the tenant for a monetary order (return of her security deposit). Both parties have also requested recovery of the filing fee from each other. Both parties attended the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Are the parties entitled to the requested orders?

Background and Evidence

This tenancy began on October 1, 2014. The lease was supposed to be for a fixed term of two years ending on October 1, 2016. The rent was \$1400.00 per month. The tenant paid a security deposit of \$700.00 and a pet damage deposit of \$700.00 at the start of the tenancy. In an email dated March 28, 2015 the tenant gave the landlord notice that she planned to move out of the rental unit on or by May 1, 2015. In two subsequent emails the tenant indicated that she would be willing to list and rent the house out for the remainder of the two years but the landlord refused this offer saying they would prefer to find their own new tenant. In the end, the house was rented out to a new tenant for June 1, 2015 at a slightly higher rent. According to both parties, the house remained vacant for the month of May so that the landlord could do some renovations to the property.

On May 1st, when the parties met to do a walk-through of the house the tenant gave the landlord her forwarding address in writing and requested return of her security deposit. The landlord indicated at that time that the tenant would not be receiving all her deposit back because the landlord intended to file a claim against the deposit for travel and other expenses. Indeed, the landlord did file an application with the RTB on May 13, 2015. The landlord did not, however, serve the tenant with a copy of the Application for Dispute Resolution and Notice of Hearing.

Subsequently, on May 22, 2015 the tenant filed an application with the RTB seeking return of her security deposit. To date, the tenant has not received any of her deposit back from the landlord.

Analysis

Landlord's Claim

Section 59(3) of the Act says that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

In the present case the landlord did not comply with Section 59(3) and as a result, the landlord's application is dismissed with leave to reapply.

Tenant's Claim

The tenant provided her forwarding address to the landlord in writing and is entitled to the return of her security and pet damage deposits. The landlord did file a claim against the deposits within 15 days of receiving the tenant's address (although failed to serve it) and as a result the tenant is not entitled to a doubling of the deposit amount under Section 38(6).

Conclusion

The landlord's claim is dismissed with leave to reapply.

I find that the tenant has established a total monetary claim of \$1400.00 being the full amount of her security and pet damage deposits. I also find that the tenant is entitled to recover the \$50.00 filing fee for this application for a total award of \$1450.00.

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: October 21, 2015

Residential Tenancy Branch

