



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of the security deposit and pet deposit, in addition to recovery of the filing fee. The tenant made application on June 05, 2015 and amended her application on October 26, 2015 to increase the amount of her claim, to double the security deposit.

A hearing was conducted on June 16, 2015 to address the landlord's application to retain the deposits towards her monetary claim for damages. During that hearing, the Arbitrator decided on the return of both the pet and security deposits. The landlord was also notified of the hearing set for this date to address the tenant's application.

The tenant testified that she served the landlord with the notice of hearing package on June 10, 2015 by express post and provided a tracking number. The tenant testified that the tracking history indicated that the landlord had picked up the package and signed for it. The tenant also testified that she sent a copy of the amended application by express post but it was not picked up by the landlord.

Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the tenant entitled to the return of double the security deposit and the filing fee?

Background and Evidence

The tenancy began on December 01, 2013 and ended on October 15, 2014. The monthly rent was \$800.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$400.00 and a pet deposit of \$400.00.

A hearing was held on June 16, 2015 arising from an application by the landlord for a monetary order. The tenant made this application on June 05, 2015, but it was too late to join this application to that of the landlord.

The hearing proceeded as scheduled on June 16, 2015 and the landlord's application was heard. Both parties appeared at that hearing and a decision was issued on July 15, 2015. The tenant's application was scheduled to be heard on this day, November 10, 2015.

In the Analysis of the aforementioned decision dated July 15, 2015, the Arbitrator found as follows:

Security and Pet Deposits

As the landlord is not entitled to retain any amount from the security deposit, it must be returned to the tenant, in the amount of \$400.00.

Under section 38 of the Act, a pet deposit may only be used for damage done by a pet. The landlord did not allege any damage done by the tenant's pet; therefore, the landlord was required to return the pet deposit to the tenant within 15 days of the tenant providing her forwarding address in writing. In this case, the tenant provided her forwarding address in writing in the move-out condition inspection report on October 10, 2014. The landlord did not return the pet deposit, and therefore the tenant is entitled to double recovery of the pet deposit, in the amount of \$800.00.

Analysis

Based on the documentary evidence and testimony of the tenant, I find that the return of the security deposit was dealt with, in the decision dated July 15, 2015.

Black's Law Dictionary defines *res judicata*, in part as follows:

Rule that a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties and their privies, and, as to them, constitutes an absolute bar to a subsequent action involving the same claim, demand or cause of action.

Following from the above, I must dismiss the tenants' application.

The tenant has also applied for the recovery of the filing fee. At the time the tenant made this application, she had already received the notice of hearing package from the landlord.

Since the landlord's application included the matter regarding the retention or return of the deposits, the tenant did not have to make her own application for the return of the deposits. Therefore the tenant must bear the cost of filing her own application.

Conclusion

Pursuant to all of the above, I hereby dismiss the tenants' application.

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: November 10, 2015

Residential Tenancy Branch

