



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 as a result of the tenants' application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "*Act*"). The tenants applied for the return of double their security deposit and pet damage deposit under the *Act*, plus the recovery of the cost of their filing fee.

The tenants and the landlords attended the teleconference hearing as scheduled and gave affirmed testimony. During the hearing the parties presented their evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

Both parties confirmed that they received and reviewed the documentary evidence from the other party. I find the parties were served in accordance with the *Act* as a result.

Preliminary Matter

Although the landlords mentioned during the hearing that they have a hearing based on their own application scheduled for May 30, 2016 based on an application made by the landlords on November 5, 2015, the parties were advised that the landlords' application was not part of this hearing and would not be considered at this proceeding.

Issues to be Decided

- Are the tenants entitled to the return of double the security deposit and pet damage deposit under the *Act*?
- Are the tenants entitled to the recovery of the cost of their filing fee under the *Act*?

Background and Evidence

The parties agreed that a fixed term tenancy began on November 1, 2014 and was scheduled to end on November 1, 2015. The parties agreed that the tenants vacated the rental unit on June 1, 2015. Monthly rent in the amount of \$1,475 was due on the first day of each month. A security deposit of \$737.50 and a pet damage deposit of \$300 were paid by the tenants at the start of the tenancy.

The tenancy ended on June 1, 2015 when the tenants vacated the rental unit. The parties agreed that the tenants provided their written forwarding address in writing which the landlords received on June 1, 2015. The landlords' evidence confirms they have not returned either the security deposit or the pet damage deposit and did not file a claim towards either deposit until November 5, 2015. The parties confirmed that the landlords were not given permission to retain any portion of the security deposit or pet damage deposit by the tenants. In addition, the landlords confirmed that they did not complete an incoming or outgoing condition inspection report at the start or the end of the tenancy.

Analysis

Based on the documentary evidence and the testimony of the parties provided during the hearing, and on the balance of probabilities, I find the following.

Tenants' claim for the return of double their security deposit and pet damage deposit – I accept that the tenancy ended on June 1, 2015 when the tenants vacated the rental unit. June 1, 2015 is the same date that the landlords confirm having received the tenants' forwarding address in writing from the tenants. Section 38 of the *Act* applies which states:

Return of security deposit and pet damage deposit

38 (1) Except as provided in subsection (3) or (4) (a), **within 15 days after the later of**

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

(6) If a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

[my emphasis added]

In the matter before me, given the above, and pursuant to section 38 of the *Act*, I find the landlords had to return the tenants' full security deposit and pet damage deposit to the tenants within 15 days of receiving the tenants' forwarding address in writing on June 1, 2015, which the landlords failed to do. As the landlords failed to complete an incoming condition inspection report at the start of the tenancy pursuant to section 23 of the *Act*, and an outgoing condition inspection report at the end of the tenancy pursuant to section 35 of the *Act*, I find the landlords extinguished their right to claim towards the tenants' security deposit and pet damage deposit pursuant to sections 24 and 36 of the *Act*.

Based on the above, I find the landlords breached section 38 of the *Act* by failing to return the tenants' security deposit and pet damage deposit in full to the tenants within 15 days of receiving the forwarding address of the tenants in writing on June 1, 2015. Therefore, I find the tenants are entitled to the return of double their original security deposit of \$737.50 plus double the original pet damage deposit of \$300 for a total of the doubled deposits in the amount of **\$2,075**. I note that the security deposit and pet damage deposit have accrued \$0.00 in interest since the start of the tenancy.

As the tenants were successful with their application, I grant the tenants the recovery of their filing fee in the amount of **\$50**.

Monetary Order – I find that the tenants have established a total monetary claim in the amount of **\$2,125**, comprised of \$1,475 for the doubled security deposit, \$600 for the doubled pet damage deposit, plus recovery of the \$50 filing fee. I grant the tenants a monetary order pursuant to section 67 of the *Act* in the amount of **\$2,125**.

Conclusion

The tenants' application is successful.

The landlords are cautioned to comply with sections 23, 35 and 38 of the *Act* in the future.

The tenants have been granted a monetary order pursuant to section 67 of the *Act* in the amount of \$2,125. This order must be served on the landlords and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: December 7, 2015

Residential Tenancy Branch

