



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* (the "Act") for:

- authorization to obtain a return of all or a portion of the security deposit, including double the amount, pursuant to section 38;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;

The hearing was conducted by conference call. The landlord did not attend this hearing, although I waited until 2:55 p.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 2:30 p.m. The tenant's representative C.D. attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

C.D. testified that on January 8, 2016, she sent a copy of the Application for Dispute Resolution and Notice of Hearing to both the landlords named in the application by registered mail. Registered mail tracking numbers were provided in support of service.

Based on the above evidence, I am satisfied that the landlord was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the landlord.

Issues

Is the tenant entitled to a return of all or a portion of the security deposit, including double the amount?

Is the tenant entitled to a monetary order for compensation for damage or loss?

Background and Evidence

The tenancy began on August 1, 2014 with a monthly rent of \$650.00 payable on the 1st day of each month. The tenant's rent was subsidized by BC Housing and the amount of \$300.00 was paid to the landlord directly by BC Housing. The remaining \$350.00 was paid directly to the landlord by the Ministry of Social Development. The Ministry of Social Development also paid a \$325.00 security deposit on behalf of the tenant on June 30, 2014.

The tenant is claiming double the security deposit arguing that the landlord failed to return the security deposit within 15 days of the date the landlord received the tenants forwarding address in writing. The tenant provided a forwarding address to the landlord by way of a letter dated October 12, 2015. C.D. testified that this letter was served to the landlord in person by the tenant's brother on this date. C.D. provided a letter that she witnessed her son deliver this letter to the landlord.

The tenant is also claiming a \$300.00 overpayment of rent made to the landlord in June 2015. C.D. testified that in this month the landlord didn't receive the subsidy cheque from BC Housing. A letter was sent to the Ministry of Housing by the landlord inquiring about the subsidy cheque. A copy of the letter was provided as evidence. C.D. testified that she personally paid the \$300.00 rent on behalf of her son while waiting for a response from the Ministry. An invoice was provided in support of this \$300.00 payment made to the landlord by C.D. The subsidy rent was subsequently paid to the landlord by the Ministry. A letter from the Ministry was provided confirming a cheque was issued to the landlord on June 2, 2015 and cashed on June 9, 2015. The \$300.00 payment made by C.D. was not reimbursed by the landlord.

Analysis

Section 38 of the Act provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. A landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

I find the tenant did provide a forwarding address in writing to the landlord on October 12, 2015. The tenant's security deposit was not refunded within 15 days as required by section 38 of the Act and the doubling provisions of section 38 therefore apply.

I allow the tenants claim for return of the security deposit and award an amount of \$650.00, which is double the original security deposit of \$325.00.

I also find the evidence submitted by the tenant supports the tenant's claim that an overpayment of rent in the amount of \$300.00 was made in the month of June 2015. The tenant is entitled to reimbursement of this amount from the landlord for a total monetary award of \$950.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$950.00. 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: August 09, 2016

Residential Tenancy Branch