



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

1. Monetary order for return of pet damage or security deposit pursuant to Section 38; and
2. Recovery of the filing fee paid for this application pursuant to Section 67.

Both parties attended the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Is the tenant entitled to the requested orders

Background and Evidence

This tenancy began on December 1, 2013 at which time the tenant paid a security deposit of \$575.00 and a pet damage deposit of \$575.00. The tenant vacated the rental unit on April 29, 2016. The tenant provided the landlord with her forwarding address in writing by text on May 4, 2016. A copy of the text was submitted into evidence. To date, the tenant has not received any of her security deposit back from the landlord. The tenant also testified that she did not give any written authorization to the landlord to retain all or any part of her security deposit.

Analysis

Section 38(1) of the *Act* says that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must do one of the following:

- repay any security deposit or pet damage deposit to the tenant with interest; or
- make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) then goes on to say that if a landlord does not comply with the above, the landlord may not make a claim against the deposit(s) and **must pay the tenant double** the amount of the security deposit, pet damage deposit, or both, as applicable.

In the present case, the landlord has not returned the tenant's security deposit or pet damage deposit and has not filed a claim against the deposits. The landlord should have taken one of these actions by no later than May 19, 2016. Normally, the landlord would be liable for double the amount of the deposits but the tenant waived her right to double the deposit at the hearing and requested only that her security and pet damage deposits be returned to her.

Accordingly, I order that the landlord pay to the tenant the sum of \$1150.00.

Conclusion

I find that the tenant has established a total monetary claim of \$1150.00 representing double the security and pet damage deposits. I find that the tenant is also entitled to recover the \$100.00 filing fee for this application for a total award of \$1250.00. This order may be filed in the Small Claims 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: November 22, 2016

Residential Tenancy Branch