



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened in response to an application by the Tenant for return of double the security deposit pursuant to section 38 of the *Residential Tenancy Act* (the “Act”).

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to return of double the security deposit?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on April 16, 2016 and ended on May 31, 2016. Rent of \$750.00 was payable monthly. At the outset of the tenancy the Landlord collected \$380.00 as a security deposit. No condition inspection report was prepared by the Landlord at move-in with a copy to the Tenant. The Tenant has not provided her forwarding address in writing separately from the application for dispute resolution. The Tenant confirms that the address in the application is her forwarding address. The Landlord has yet to return the security deposit. It is noted that no filing fee was paid by the Tenant for this application.

Analysis

Section 23 of the Act requires that at the start of a tenancy, a landlord and tenant must together inspect the condition of the rental unit and the Landlord must complete a condition inspection report in accordance with the regulations. Section 24(2) of the Act provides that where a

landlord does not complete and give the tenant a copy of a condition inspection report, the right to claim against that deposit for damage to the residential property is extinguished. Based on the undisputed evidence that no move-in condition report was completed I find that the Landlord's right to claim against the security deposit for damage to the unit was extinguished at move-in.

Section 38 of the Act provides 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 repay the security deposit or make an application for dispute resolution claiming against the security deposit. As the Tenant confirmed at the hearing the provision of her forwarding address as contained in the application for dispute resolution I find that the Landlord now has the forwarding address in writing. The Landlord now has 15 days or until January 6, 2016 to return the security deposit in full. The Landlord may retain the security deposit pending its own application only if the Landlord is making a bona fide claim against the Tenant for anything other than damages to the unit. That claim however must be made before January 6, 2016. Should the Landlord fail to act as such before January 6, 2016 the Tenant has leave to reapply for return of double the security deposit.

Conclusion

The application is dismissed with leave to reapply.

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: December 22, 2016

Residential Tenancy Branch