



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNSD, OLC, PSF, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47;
- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38;
- an order requiring the landlords to comply with the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 62;
- an order requiring the landlords to provide services or facilities required by law pursuant to section 65; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

The tenant and landlords attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

At the outset of the hearing the parties testified that the tenants vacated the rental unit on December 17, 2016. Consequently the only remedy the tenant is now seeking is the return of her security deposit and recovery of the filing fee.

Issue(s) to be Decided

Is the tenant authorized to obtain a return of all or a portion of her security deposit?

Is the tenant authorized to recover the filing fee for this application from the landlords?

Background and Evidence

As per the submitted tenancy agreement and testimony of the parties, the tenancy began on October 1, 2015 on a month-to-month basis. Rent in the amount of \$725.00 was payable on the first of each month. The tenant remitted a security deposit in the amount of \$360.00 at the start of the tenancy. The tenant vacated the rental unit on December 17, 2016.

The landlords confirmed receipt of the tenant's forwarding address on December 7, 2016. The landlords acknowledged that the tenant did not provide authorization for the landlords to retain the security deposit.

Analysis

Section 38 of the *Act* establishes that a landlord has fifteen days from the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to file an arbitration application claiming against the deposit, or return the deposit. A tenant may waive their right to the return of the security deposit through written authorization to the landlord. In the absence of written authorization from the tenant, the landlord must return the security deposit or file an application within fifteen days. Should the landlord fail to do this, the landlord must pay the tenant double the amount of the security deposit.

Based on the parties' testimony, the landlord received the forwarding address on December 7, 2016. The landlord did not file an arbitration application to retain the deposit, the landlord did not return the full deposit and the landlord did not receive written authorization to retain it. Based on this, I find the tenant is entitled to double the value of her security deposit in the amount of \$720.00.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for the application.

Conclusion

I issue a monetary order in the tenant's favour in the amount of \$820.00 against the landlord.

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: January 16, 2017

Residential Tenancy Branch