



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 for Dispute Resolution seeking a monetary order. The hearing was conducted via teleconference and was attended only by the tenant.

Issue(s) to be Decided

Whether the tenant is entitled to a monetary order for all or part of the security deposit; and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the landlords were served personally with notice of this hearing by registered mail by posting it on December 16, 2016. The landlords responded by sending the tenant part of his security deposit back sometime in January 2017. Based

on the above, I find that the landlords are deemed to have been served with the notice of hearing documents five days after mailing the documents pursuant to the *Residential Tenancy Act* (the *Act*). The tenant testified the tenancy began on July 1, 2016 as a month to month tenancy with a monthly rent of \$ 850.00 due on the last of each preceding month and that a security deposit of \$ 400.00 was paid on July 1, 2016. The tenancy ended on August 22, 2016.

The tenant provided a copy of a form supplied by the landlords dated July 29, 2016 which in addition to giving his 30 day notice to end the tenancy provided the landlords with the tenant's forwarding address. The tenant agreed to the landlord making deductions amounting to \$ 60.00 and in January 2017 the landlord forwarded to the tenant a cheque amounting to \$ 340.00.

Analysis

Section 38(4) states that the landlords may retain an amount from a security deposit or a pet damage deposit if **at the end of a tenancy**, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant. Here the tenant agreed to a deduction of \$ 60.00.

Section 38(1) of the *Act* stipulates that the landlords must, within 15 days of the end of the tenancy or receipt of the tenant's forwarding address, return the security deposit to the tenant or file an Application for Dispute Resolution to claim against the security deposit for any damage or loss the landlords may have incurred.

I accept the tenancy ended on August 22, 2016 and that the tenant provided his forwarding address in writing to the landlords on July 29, 2016. To be compliant with Section 38(1) the landlords would have to return the security deposit to the tenant less the agreed amount of deductions, or file his own application no later than August 12, 2016.

I find that as the landlords failed to comply with section 38 (1) therefore I award the tenant double the amount of the security deposit less the agreed deductions ($\$ 340 \times 2 = \$ 680.00$) and less the amount already received ($\$ 340.00$) equal to \$ 340.00 pursuant to section 38(6) of the *Act*. The tenant is also entitled to recover his filing fee of \$ 100.00.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$ 440.00** comprised of double the security deposit less the permissible deductions less the amount actually returned by the landlords and the \$ 100.00 fee paid by the tenant for this application. This decision and order must be served on the landlords. If the landlords fail to comply with this order the tenant may file the order in the Provincial Court (Small Claims division) and it can be 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: February 06, 2017

Residential Tenancy Branch