



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking a monetary order for return of all or part of the pet damage deposit or security deposit; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

Both tenants attended the hearing and each gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord attended the call. One of the tenants testified that a process server served the landlord personally with the Tenant's Application for Dispute Resolution and notice of this hearing on December 13, 2016 and a Certificate of Service signed by the process server has been provided confirming that testimony. The tenant also testified to being present and witnessing the process server serve the documents. I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

During the course of the hearing, the tenant testified that the landlord has not provided any evidentiary material to the tenants. Any evidence that a party relies on must be provided to the other party as well. I accept the undisputed testimony of the tenant that none of the landlord's evidentiary material has been received, and in the absence of the landlord, whom I have found has been adequately served, I decline to consider any evidence of the landlord. All evidence of the tenants has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlord for return of all or part or double the amount of the pet damage deposit and security deposit?

Background and Evidence

The first tenant (JM) testified that this fixed-term tenancy began on December 1, 2015 and expired on June 30, 2016 at which time the tenants were required to vacate the rental unit. The tenants did so, and the tenancy ended on June 30, 2016. Rent in the amount of \$1,500.00 per month was payable on the 1st day of each month, and there are no rental arrears. No move-in or move-out condition inspection reports were completed.

At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$750.00 as well as a pet damage deposit in the amount of \$750.00. The landlord has not returned either deposit to the tenants. A letter requesting return of the deposits addressed to the landlord has been provided, and the tenant testified that the first witness signature on the document is the tenants' adult son. The second witness signature is the person who received the letter on behalf of the landlord. The letter contains a forwarding address of the tenants.

The second tenant (MLLD) testified that the landlord refused to give the tenants the landlord's home address, but gave the tenant the landlord's business card, which contained an address of the landlord's workplace. The tenants paid the deposits and gave post-dated cheques to another representative of the landlord prior to the commencement of the tenancy.

On November 6, 2016 the tenant attended at the workplace contained on the landlord's business card and gave to the landlord's secretary the letter requesting return of the deposits and containing the tenants' forwarding address, and asked the landlord's secretary to sign it. The secretary signed it acknowledging receipt.

The tenants have not been served with an application for dispute resolution by the landlord claiming against either deposit, and the landlord has refused to return calls or text messages.

Analysis

The *Residential Tenancy Act* specifies that a landlord must either return a security deposit or pet damage deposit to a tenant in full within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an application for dispute resolution claiming against the deposit(s) within that 15 day period. If the landlord fails to do either, the landlord must repay the tenant double the amount.

The *Act* also specifies that a landlord must provide an address to tenants, and I find that the landlord has done so on the business card provided to the tenants. I also accept the undisputed testimony of the tenant that the landlord's secretary who signed the letter as a witness received the tenants' forwarding address in writing on November 6, 2016 at the address of the landlord contained on the landlord's business card. The landlord has not returned either of the deposits and the tenant testified that the landlord has not served the tenants with an application for dispute resolution claiming against the deposits, and I have no such application before me. Therefore, the landlord must repay double the amount.

Since the tenants have been successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee.

The tenants' application also specifies an additional claim for cable and gas, which was not dealt with during the hearing, and I dismiss that portion of the tenants' claim with leave to reapply.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$3,100.00.

The balance of the tenants' application is hereby dismissed with leave to reapply.

This order is final and binding and may be enforced.

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 09, 2017

Residential Tenancy Branch