



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Tynik Management Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, OLC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order to return the security deposit - Section 38;
2. An Order for the Landlord’s compliance - Section 62; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Tenants confirmed that the claim for the Landlord’s compliance is in relation to the return of the security deposit.

Issue(s) to be Decided

Is the Tenant entitled to return of the security deposit?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The following are undisputed facts: The tenancy started in February 2014 and ended on August 30, 2016. At the outset of the tenancy the Landlord collected \$425.00 as a security deposit. The Tenant provided a forwarding address to the Landlord on August 30, 2016 and on September 7, 2016 the Landlord returned \$22.58 of the security deposit to the Tenant. The cheque was not cashed. The Landlord retained the remainder of the security deposit for damage to the unit. The Landlord made no application to claim against the security deposit.

Analysis

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. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Based on the undisputed evidence that the Landlord did not return the full security deposit to the Tenant and did not make an application to claim against the security deposit I find that the Landlord now owes the Tenant double the security deposit plus zero interest in the amount of **\$850.00**. As the Tenant has been successful with its application I find that the Tenant is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$950.00**. As the Tenant has not cashed the cheque for \$22.58 and as it is likely stale dated now and therefore not cashable, I order the Tenant to either destroy the cheque or return this cheque to the Landlord for disposal.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$950.00**. If necessary, 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 *Act*.

Dated: March 14, 2017

Residential Tenancy Branch