



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- a monetary order for the return of double the security deposit pursuant to section 38 and 67 of the Act;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony that the tenant served the landlord with the notice of hearing package in person on September 8, 2016. The tenant did not submit any documentary evidence. The landlord stated that the tenant was served with the submitted documentary evidence via Canada Post Registered Mail on February 21, 2017. The tenant confirmed receipt of the documentary evidence as claimed. As both parties have attended and have confirmed receipt of the submitted documentary evidence, I am satisfied that both parties have been properly served as per section 88 and 89 of the Act.

At the outset of the hearing it was clarified with both parties that the tenant's application was for return of double the security deposit pursuant to section 38 of the Act.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of double the security deposit and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that this tenancy began on February 1, 2016 on a fixed term tenancy until January 31, 2017 and then thereafter on a month-to-month basis. The monthly rent was \$1,720.00 payable on the 1st day of each month. A security deposit of \$860.00 and a pet damage deposit of \$860.00 were paid.

Both parties agreed that the tenancy ended on August 18, 2016 when the tenant complied with an order of possession granted to the landlord. Both parties agreed that the tenant provided his forwarding address in writing in person on August 21, 2016.

Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award pursuant to subsection 38(6) of the Act equivalent to the value of the security deposit.

In this case, both parties agreed that the landlord did not return the \$860.00 security and the \$860.00 pet damage deposits to the tenant in dispute over the condition of the rental premises. The landlord confirmed that she did not file an application for dispute or obtain an order from the Residential Tenancy Branch for permission to retain the security and pet damage deposits within the allowed timeframe. Based upon the undisputed affirmed evidence of both parties the tenant has established a claim for return of the original combined deposits of \$1,720.00 and pursuant to section 38 (6) of the Act is entitled to an amount equal to the \$1,720.00 value of the combined deposits.

The tenant having been successful in his application is entitled to recovery of the \$100.00 filing fee

Conclusion

The tenant is granted a monetary order for \$3,540.00.

This order must be served upon the landlord. Should the landlord fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial 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 *Residential Tenancy Act*.

Dated: March 03, 2017

Residential Tenancy Branch

