



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover double the security deposit and to recover the filing fee from the landlord for the cost of this application.

The tenant and landlord attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions under oath. The tenant provided some documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure.

Issue(s) to be Decided

- Is the tenant entitled to recover the security deposit?
- Should the security deposit be doubled under the provisions of s. 38(6)(b) of the *Act*?

Background and Evidence

The parties agreed that this tenancy started on February 01, 2016 for a fixed term tenancy that was due to end on January 31, 2017. Rent for this unit was \$700.00 per month due on the 1st day of each month in advance. The tenant paid \$350.00 for the security deposit at the start of the tenancy.

The tenant agreed she ended the tenancy on June 01, 2016. The tenant provided a forwarding address in writing to the landlord by putting it on the landlord's door on June 13, 2016. A photograph of this service has been provided in documentary evidence.

The tenant testified that she did not give the landlord written permission to keep all or part of the security deposit. The tenant testified that the landlord did not complete a move in condition inspection report at the start or end of the tenancy. The tenant testified that the landlord has not returned her security deposit within 15 days and therefore the tenant seek to recover double the security deposit as permitted under the *Act*.

The landlord testified that the tenant ended the tenancy before the end of the fixed term and rent is the tenant's responsibility until the end of January, 2017. The landlord agreed that he did receive the tenant's forwarding address on June 15, 2016 and agreed that he did not do a move in or a move out condition inspection at the start and end of the tenancy.

The landlord testified that he did advertise the unit when the tenant moved out but could not find a new tenant and so the landlord decided to leave the unit empty. Therefore as the unit could not be re-rented for June, 2016 the landlord retained the security deposit.

Analysis

Section 38(1) of the Residential Tenancy Act (Act) says that a landlord has 15 days from the end of the tenancy or from the date that the landlord receives the tenant's forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If the landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenants.

Therefore, based on the above and the undisputed evidence presented I find that the landlord did receive the tenant's forwarding address in writing on June 15, 2016. As a result, the landlords had until June 30, 2016 to return all of the tenant's security deposit or file a claim to keep it. As the landlord failed to do so, the tenant has established a claim for the return of double the security deposit to an amount of **\$700.00**, pursuant to section 38(6)(b) of the *Act*. There has been no accrued interest on the security deposit for the term of the tenancy.

The tenant is also entitled to recover the **\$100.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

Conclusion

For the reasons set out above, I grant the tenant a Monetary Order pursuant to Section 38(6)(b) and 72(1) of the *Act* in the amount of **\$800.00**. This Order must be served on the landlord and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the landlord fails to comply with the Order.

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 24, 2017

Residential Tenancy Branch