



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

1. An Order for the return of double the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Has the matter of the security deposit been dealt with in a previous decision?

Did the Landlord fail to act as ordered in the previous decision?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

In a previous decision dated September 29, 2016 the Landlord was found to be successful with a portion of its claim for damages to the unit and was ordered to retain that portion from the security deposit and to return the remaining amount of \$845.00 within 15 days receipt of that decision. No monetary order was provided to the Tenant for this amount. The Landlord states that because he applied for a review of the previous decision he believed that he did not have to follow the order contained in the decision until after the review application was considered. The Landlord states that after the review application was dismissed the Landlord returned the \$845.00 to the

Tenant within 15 days receipt of the review decision. The Tenant claims return of double the security deposit.

Analysis

Section 77 (3) of the Act provides that a decision or an order is final and binding on the parties. As the matter of the security deposit and amount to be returned was dealt with in the previous decision and as there is nothing in the previous decision that sets out any right of the Tenant to claim double if the Landlord fails to act as ordered I find that the determination of the amount to be returned may not now be changed. As the Tenant has now received the amount ordered in the previous decision I dismiss the Tenant's claim for a greater sum. Although the Landlord did return the \$845.00 to the Tenant, it was not returned within the 15 days as ordered and, as there was no monetary order that could have been set aside pending the outcome of the review application, I find that the Landlord failed to act as ordered. I find therefore that the Tenant is entitled to recovery of the \$100.00 filing fee.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. 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 *Residential Tenancy Act*.

Dated: April 06, 2017

Residential Tenancy Branch