



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD, FF

Introduction

This was a cross-application hearing for Dispute Resolution. The matter was set for a conference call hearing.

The Landlord applied requesting to keep all or part of a pet damage deposit and security deposit, and to recover the cost of the application fee.

The Tenants applied for a monetary order for the return of the security deposit and pet damage deposit.

The Tenant Mr. M.G. attended the hearing; however, the Landlord did not. The tenant testified that the Landlord was served with the Notice of hearing using registered mail on November 24, 2016. The Tenant provided the registered mail tracking number as proof of service.

The Tenant provided with an opportunity to ask questions about the hearing process and was provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Landlord applied for Dispute Resolution on November 14, 2016, requesting to keep all or part of the security deposit or pet damage deposit.

The Landlord failed to attend the hearing to respond to the Tenant's application and failed to appear in support of her own application. The Tenant was present and ready to proceed. The Landlord's application is dismissed without leave to reapply.

Issues to be Decided

- Are the Tenants entitled to double the security deposit?

- Are the Tenants entitled to recover the cost of the filing fee?

Background and Evidence

The Tenant testified that the tenancy commenced on September 1, 2014. Rent in the amount of \$2000.00 was due on the first day of each month. The Tenants paid a security deposit of \$1000.00 and a pet damage deposit of \$500.00 to the Landlord.

The Tenant testified that the Tenants moved out of the rental unit on October 31, 2016.

Security Deposit

The Tenants are seeking the return of double the security deposit and pet damage deposit.

The Tenant testified that the Landlord did not return the security deposit and pet damage deposit within 15 days of providing their forwarding address in writing.

The Tenant testified that the Tenants participated in a move in inspection and move out inspection. The Tenant testified that he provided his forwarding address in writing on October 31, 2016. The Tenant referred to the documentary evidence of the Condition Inspection Report which shows that the Tenants provided the forwarding address at the time of the move out on October 31, 2016.

The Tenant testified that there was no written agreement that the Landlord could retain any amount of the deposits at the end of the tenancy.

The Tenant testified that he is not aware of any legal authority that allows the Landlord to withhold repayment of the deposits.

Analysis

Residential Tenancy Policy Guideline # 17 Security Deposit and Set Off states

The landlord has 15 days, from the later of the day the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return the security deposit plus interest to the tenant, reach written agreement with the tenant to keep some or all of the security deposit, or make an application for dispute resolution claiming against the deposit.

If the landlord does not return or file for dispute resolution to retain the deposit within fifteen days, and does not have the tenant's agreement to keep the deposit, the landlord must pay the tenant double the amount of the deposit.

Despite indicating to the Tenant in the hearing that his claim for the return of double the deposits is successful, I have deliberated further on the matter and based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

The Tenants provided their forwarding address in writing to the Landlord on October 31, 2016. On November 14, 2016, the Landlord filed an application for dispute resolution seeking to keep the security deposit and pet damage deposit. The Landlord's application was filed within 15 days of the date the Tenants' provided their forwarding address.

I find that the Landlord was served with the Notice of Hearing and failed to attend the hearing. The Landlord's application to keep the security deposit and pet damage deposit is dismissed.

I order the Landlord is to return the deposits to the Tenants.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenants were successful in their application, I order the Landlord to pay the cost of the filing fee for this hearing.

The Tenants are granted a monetary order in the amount of \$1,600.00 for the return of the security deposit and pet damage deposit and the cost of the filing fee. The order must be served on the Landlord and may be enforced in the Provincial Court.

Conclusion

I award the Tenants a monetary order in the amount of \$1,600.00 on their claim for the return of the security deposit and pet damage deposit.

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: May 16, 2017

Residential Tenancy Branch