



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with a landlord's application for compensation for cleaning, damage and keys; and, authorization to retain part of the tenant's security deposit. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

At the outset of the hearing, I explored service of hearing documents upon each other and the Residential Tenancy Branch. The tenant confirmed that he received documents that appeared to be evidence from the landlord; however, I noted that I had not received any evidence from the landlord. The resident manager initially stated the Residential Tenancy Branch sent the evidence to her since she had a complete package in front of her. I clarified for the resident manager that the Branch does not create and send an applicant's evidence to the applicant after which point the resident manager stated that the landlord's head office would have sent it to the Branch. I requested that the resident manager enquire with her head office to determine when and how the landlord's head office sent their evidence to the Residential Tenancy Branch. The resident manager made the enquiry and determined that the landlord's evidence had not been sent to the Residential Tenancy Branch.

The tenant commented that he has already waited several months for his security deposit to be returned to him and he did not want any further delay.

In the absence of any evidence from the applicant/landlord, I informed the parties that I was prepared to dismiss the landlord's claim, with leave to reapply, and order the return of the security deposit to the tenant in keeping with Residential Tenancy Policy Guideline 17: *Security Deposit and Set-off* where it states, in part: "The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for dispute resolution for its return." Neither party objected to this approach; however, the parties were in dispute as to whether the tenant had already received a partial refund of the security deposit.

The parties were in agreement that the landlord had collected a security deposit of \$710.00 from the tenant. However, the resident manager stated a refund cheque of \$314.00 was mailed to the tenant on January 11, 2017 by the landlord's head office; whereas, the tenant testified that he did not receive any refund from the landlord. The tenant's mailing address, as it appears on the Application for Dispute Resolution, was confirmed to be accurate up until very recently. I asked the resident manager to enquire with the head office to determine whether the partial refund cheque had actually been cashed but the person responsible for banking was not available.

In light of the above, I ordered the landlord to refund the tenant's \$710.00 security deposit to him without further delay. If the landlord has evidence to show the tenant has already cashed a cheque for a partial refund of the security deposit, the landlord may send the tenant the remaining balance of the security deposit along with a copy of the cancelled cheque or other proof to show the tenant already received a partial refund. A photocopy of the front side of a cheque in itself is not sufficient proof. I would expect the landlord would provide the tenant with a copy of the front and back side of the cancelled cheque and the correspondent debit in their bank statement (with confidential information such as account number and balances omitted as appropriate).

The tenant provided his new address during the hearing. The resident manager indicated she had recorded it; however, I have also reproduced it on the cover page of this decision for the landlord to use send the refund cheque to the tenant and serve the tenant with a new Application for Dispute Resolution.

Conclusion

The landlord's claim against the tenant is dismissed with leave to reapply.

The landlord is ordered to return the tenant's \$710.00 security deposit to him without further delay. The tenant is provided a Monetary Order in the amount of \$710.00 to ensure payment is made.

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: June 29, 2017

Residential Tenancy Branch

