



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MND, FF

Introduction

This hearing was convened in response to an application for dispute resolution made by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") on January 5, 2017 for Orders as follows:

1. A Monetary Order for damage - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord's evidence that the Tenant was served with the application for dispute resolution and notice of hearing (the "Materials") by registered mail in accordance with Section 89 of the Act. It is noted that the Tenant provided an evidence package in response to the Landlord's application indicating that the Tenant did receive the Materials. The Landlords were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord required to pay the Tenant double the security deposit?

Is the Landlord entitled to the costs claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on December 6, 2015 and ended in June 2016. At the outset of the tenancy the Landlord collected a security deposit of \$300.00. No move-in inspection or report was completed with a copy provided to the Tenant. The Landlord confirms that in a previous Decision dated December 20, 2016 the Landlord was determined to have received the Tenant's forwarding address on December 20, 2016 and was informed of the requirements under the Act

to make either an application for dispute resolution to claim against the security deposit or to return the full security deposit within 15 days of December 20, 2016. The Landlord confirmed that it made its application on January 5, 2017.

The Landlord states that the Tenant left a mattress soiled and that it had to be replaced. The Landlord states that the original mattress was 5 years old and that the expected age of the new mattress is 8 - 10 years old. The Landlord provides an invoice and the Landlord confirms that the cost of one mattress is \$330.00. The Landlord claims \$396.50. It is noted that the invoice indicates that two mattresses were purchased along with one box spring and includes charges for freight for the total cost of \$823.20.

Analysis

Section 24 of the Act provides that the right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord does not make an offer for an inspection at move-in, does not complete a report and does not provide a copy of that report to the tenant. Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Policy Guideline #17 provides as follows:

Return of double the deposit will be ordered if the landlord has claimed against the deposit for damage to the rental unit and the landlord's right to make such a claim has been extinguished under the Act. If a landlord does not return the security deposit or apply for dispute resolution to retain the security deposit within the time required, and subsequently applies for dispute resolution in respect of monetary claims arising out of the tenancy, any monetary amount awarded will be set off against double the amount of the deposit plus interest.

Based on the undisputed evidence that the Landlord did not complete a move-in inspection and neither returned the security deposit or claimed against it in the current application made January 5, 2017 within 15 days receipt of the forwarding address provided on December 20, 2017 I find that the Landlord must now repay the Tenant double the security deposit plus zero interest of **\$600.00**.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Policy Guideline #40 "Useful Life of Building Elements" does not indicate the expected life of a mattress but does indicate that furniture has a useful life of 10 years. Based on the Landlord's undisputed evidence I find that the Tenant left the original mattress with damages. Based on the undisputed evidence of the Landlord of the expected age of the purchased mattress and given the estimated life of furniture I find that the original mattress had at least 5 years life left and that the Landlord is therefore entitled to half the costs of the new mattress in the amount of **\$165.00** (\$330.00/2). I do not find the Landlord entitled to the costs of the other items on the invoice.

As the Landlord's application had merit I find that the Landlord is also entitled to the **\$100.00** filing fee for a total entitlement of **\$265.00**. Deducting this entitlement from the **\$600.00** owed to the Tenant I find that the Landlord owes the Tenant **\$335.00** to be returned to the Tenant forthwith.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$335.00**. 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: June 22, 2017

Residential Tenancy Branch