



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD OLC FF

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution ("application") under the *Residential Tenancy Act* ("Act"). The tenant applied for a monetary order for the return of all or part of their security deposit, for an order directing the landlord to comply with the Act, regulation or tenancy agreement, and to recover the cost of the filing fee.

The tenant and landlord D.G. ("landlord") attended the hearing. The parties gave affirmed testimony, were provided the opportunity to present their relevant evidence orally and in documentary form prior to the hearing, and make submissions to me.

Both parties confirmed that they were served by the other party with documentary evidence and that they had the opportunity to review that evidence. I find the parties were sufficiently served under the Act.

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.

Issues to be Decided

- Is the tenant entitled to the return of their security deposit under the Act?
- Should the landlord be ordered to comply with the Act, regulation or tenancy agreement?

Background and Evidence

A copy of the tenancy agreement was not submitted in evidence although the parties did agree that a written tenancy agreement did exist. The tenant stated that he vacated the rental unit on March 26, 2017. Although a copy of the tenant's written forwarding address was submitted in evidence dated May 21, 2017 it contained a typo and as a result, contained two different forwarding addresses for the tenant.

The landlord confirmed that she did not complete an incoming Condition Inspection Report ("CIR") at the start of the tenancy. The landlord also testified that she has not filed an application to claim towards the tenant's security deposit.

Analysis

Based on the testimony and documentary evidence before me, and on the balance of probabilities, I find the following.

Section 38 of the *Act* states:

Return of security deposit and pet damage deposit

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

[My emphasis added]

Based on the above, I find the tenant has not provided a proper written forwarding address by including a typo in the May 21, 2017 document. Therefore, the landlord was advised that in accordance with the Residential Tenancy Branch Practice Directive 2015-01, the landlord had it explained very clearly that as of the date of this hearing, December 5, 2017, the landlord has now confirmed receipt of the tenant's written forwarding address, a copy of which has been included on the cover page of this decision for ease of reference.

I find the landlords have extinguished their right to the tenant's security deposit pursuant to section 24(2)(c) of the *Act* which states:

Consequences for tenant and landlord if report requirements not met

24 (2) 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

(c) **does not complete the condition inspection report** and give the tenant a copy of it in accordance with the regulations.

[My emphasis added]

Therefore, I **ORDER** the landlord to return the tenant's full security deposit of **\$1,950.00 within 15 days of December 5, 2017**. Should the landlord fail to comply with my Order, I grant the tenant leave to apply for the return of double his security deposit under the *Act*.

I do not grant the tenant the recovery of the cost of the filing fee.

I caution the landlord to comply with sections 23 and 35 of the *Act* in the future which requires the landlord to complete a written condition inspection report at the start and at the end of every tenancy.

Conclusion

The landlord has received the written forwarding address as of the date of this hearing, December 5, 2017. The landlord has been ordered to return the tenant's full security deposit of \$1,950.00 within 15 days of December 5, 2017.

Should the landlord fail to comply with my Order, I grant the tenant leave to apply for the return of double his security deposit under the *Act*.

The landlord has been cautioned to comply with sections 23 and 35 of the *Act* in the future.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: December 5, 2017

Residential Tenancy Branch