



Dispute Resolution Services

Page: 1

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 Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

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

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

Issue(s) to be Decided

Are the Tenants entitled to return of double the security deposit?

Are the Tenants entitled to recovery of the filing fee?

Background and Evidence

The following are undisputed facts: The tenancy, under written agreement, started on October 14, 2016 and ended on October 14, 2017. Monthly rent of \$950.00 was payable in advance on the last day of each month. At the outset of the tenancy the Landlord collected \$950.00 as security deposit. In a Decision dated March 1, 2018 the Parties agreed that the Landlord held \$475.00 as a security deposit and \$475.00 as a pet deposit. The Landlord obtained the Tenants’ forwarding address sometime in November 2017. The Landlord has not returned the security and pet deposit and has not made any application to claim against the deposits. The Tenants did not authorize the Landlord in writing to retain any portion of the security deposit.

The Tenants state that no move-in inspection was conducted. The Landlord states that a move-in inspection was conducted, a report was completed and a copy of that report was provided to the Tenants at some point. The Tenants state that no move-out inspection was conducted despite their repeated requests for such an inspection. The Tenants state that 3 dates to attend a move-out inspection were agreed to by the Tenants but that the Landlord failed to attend any of them. The Landlord states that circumstances prevented the Landlord from being able to attend a move-out inspection with the Tenants and that the Landlord later conducted a move-out inspection without the Tenants present. The Landlord states that no report was completed and copied to the Tenants. The Landlord indicates that it has claims against the Tenants.

The Tenants state that they provided their forwarding address to the Landlord by mail on November 6, 2017. The Tenants claim return of the security and pet deposit and confirm that they do not waive any entitlement to return of double the security deposit.

Analysis

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. Based on the undisputed evidence that the Landlord did not return the security and pet deposit or make an application to claim against the security and pet deposit after receipt of the forwarding address, I find that the Landlord must now return double the combined security and pet deposit plus zero interest of **\$1,900.00**. As the Tenants have been successful with their claim I find that the Tenants are also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$2,000.00**. Should the Tenants have caused the Landlord any damages or loss during the tenancy, the Landlord remains at liberty to make an application for dispute resolution to claim those damages or losses.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$2,000.00**. 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 12, 2018

Residential Tenancy Branch