



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the *Act*) for the return of the security deposit and pet damage deposit and for the recovery of the filing fee paid for this application.

The Landlord and Tenant were present for the duration of the teleconference hearing and were affirmed to be truthful in their testimony.

There were no issues brought forward regarding service of the Notice of Dispute Resolution Proceeding documents. Both parties confirmed receipt of the evidence of the other party.

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 Matter

During the hearing it was noted that the rental unit was a lower level suite of a home. However, the address of the rental unit on the application did not distinguish the rental unit as separate from the rest of the home. In accordance with Section 64(3)(c) of the *Act*, I amended the application and added 'basement' to the address for clarification.

Issue to be Decided

Is the Tenant entitled to a Monetary Order for the return of the security deposit and pet damage deposit?

Background and Evidence

Both parties agreed as to the terms of the tenancy. The tenancy began on September 1, 2015 and ended March 31, 2018. Monthly rent at the start of the tenancy was \$1,250.00 and was increased during the tenancy to \$1,300.00. A security deposit and a pet damage deposit were paid at the outset of the tenancy in the amount of \$625.00 each. The Landlord is still in possession of the full amount of \$1,250.00 from the security deposit and pet damage deposit.

The Tenant and Landlord were also in agreement that condition inspection reports were not completed at move-in or move-out. The Tenant testified that she did not agree to any deductions from the security deposit or pet damage deposit.

The Tenant testified that her forwarding address was provided in writing on March 29, 2018. The forwarding address was delivered in person to the Landlord's spouse. The Landlord confirmed receipt of the Tenant's forwarding address on March 29, 2018.

The Landlord provided testimony and documentary evidence regarding the condition of the rental unit at the end of the tenancy. She submitted that the carpet was soiled with dog urine and had to be removed and discarded. The concrete floor below the carpet needed to be disinfected before new carpet could be put in.

The Landlord also submitted evidence regarding items that were left behind in the rental unit that the Landlord became responsible for the disposal of. The Landlord testified that the stove was brand new when the Tenant moved in, but that the stovetop was significantly scratched when the Tenant moved out. The Landlord would like to withhold amounts from the security deposit and/or pet damage deposit as compensation for the costs incurred from bringing the rental unit back to a suitable condition.

Analysis

Based on the testimony and evidence of both parties, I find that the Tenant provided her forwarding address to the Landlord in writing on March 29, 2018 and that the tenancy ended on March 31, 2018.

Section 38(1) of the *Act* states that a landlord has 15 days after the later of the end of tenancy date or the date the forwarding address is provided in writing to either repay the security and pet damage deposit or apply for dispute resolution to claim against the security or pet damage deposit. As the Landlord testified that they did not repay the security or pet damage deposits or file a claim against the deposits, I find that the Landlord did not comply with Section 38(1) of the *Act*.

In accordance with Section 38(6) of the *Act*, if a landlord is not in compliance with Section 38(1), they may not claim against the security deposit and must pay a tenant double the security deposit and pet damage deposit. Despite the Landlord's testimony and evidence regarding the condition of the rental unit at the end of the tenancy, the Landlord did not have permission under the *Act* to withhold the security deposit or pet damage deposit, and did not file a counter claim for compensation.

The security deposit is held in trust for the Tenant by the Landlord. At no time does the Landlord have the ability to keep the security deposit because they feel they are entitled to it or are justified to keep it. If the Landlord and the Tenant are unable to agree to the repayment of the security deposit or to deductions to be made from it, the Landlord must file an Application for Dispute Resolution within 15 days of the end of the tenancy or receipt of the forwarding address, whichever is later.

Pursuant to the above analysis, I find that the Tenant is entitled to the return of double the security deposit and double the pet damage deposit.

As the Tenant was successful in her application, I also award the recovery of the filing fee paid for the application in the amount of \$100.00.

A Monetary Order will be issued to the Tenant in the amount calculated below.

Monetary Order Calculations

Double security deposit	\$1,250.00
Double pet damage deposit	\$1,250.00

Recovery of filing fee	\$100.00
Total owing to Tenant	\$2,600.00

Conclusion

Pursuant to Sections 38 and 72 of the *Act*, I grant the Tenant a **Monetary Order** in the amount of \$2,600.00 for the return of double the security deposit, double the pet damage deposit and for the recovery of the filing fee for this application. The Tenant is provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 11, 2018

Residential Tenancy Branch