



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing was held, via teleconference, on October 1, 2018. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- An order that the Landlord return all or part of the security deposit or pet damage deposit

The Tenant and attended the hearing. However, the Landlords did not. The Tenant stated that she served the Landlords each with her Notice of Hearing, and evidence, by registered mail on March 9, 2018. Pursuant to section 88 and 90 of the Act, I find the Landlords are deemed served with this package on March 14, 2018, the fifth day after it was mailed.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

Background and Evidence

The Tenant stated that she paid a security deposit of \$360.00 when the tenancy started in July of 2000. The Tenant stated that the Landlord returned \$360.00 to her on March 21, 2018. The Tenant stated that she moved out of the rental unit on December 31, 2017.

The Tenant stated that she did not receive her security deposit back within the 15 days allowable under the Act, and she is looking for double her initial deposit of \$360.00. She is also looking to recover the interest that has accrued on the initial deposit.

The Tenant stated that she sent the Landlord her forwarding address in writing on February 8, 2018, by registered mail. The Tenant stated that the Landlord did not return any money until March 21, 2018.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, the Tenant moved out of the rental unit on December 31, 2017, which I find reflects the end of the tenancy. The Tenant stated that she sent her forwarding address in writing, by registered mail, on February 8, 2018. Pursuant to section 88 and 90 of the *Act*, I find the Landlords are deemed served with this on February 13, 2018, the fifth day after it was mailed.

I note the Tenant did not authorize any deductions from the security deposit. Pursuant to section 38(1) of the *Act*, the Landlord had 15 days from receipt of the forwarding address in writing (until February 28, 2018) to either repay the security deposit (in full) to the Tenant or make a claim against it by filing an application for dispute resolution. The Landlord did neither and I find the Landlord breached section 38(1) of the *Act*.

Accordingly, as per section 38(6)(b) of the Act, I find the Tenant is entitled to recover double the amount of the security deposit (\$360.00 x 2). Also, the Tenant is entitled to some interest on her initial deposit, as follows:

2000 \$360.00: \$3.62 interest owing (2% rate for 50.28% of year)
 2001 \$360.00: \$10.94 interest owing (3% rate for 100.00% of year)
 2002 \$368.98: \$0.00 interest owing (0% rate for 100.00% of year)
 2003 \$374.56: \$0.00 interest owing (0% rate for 100.00% of year)
 2004 \$374.56: \$0.00 interest owing (0% rate for 100.00% of year)
 2005 \$374.56: \$0.00 interest owing (0% rate for 100.00% of year)
 2006 \$374.56: \$1.88 interest owing (0.5% rate for 100.00% of year)
 2007 \$375.48: \$5.66 interest owing (1.5% rate for 100.00% of year)
 2008 \$379.22: \$5.73 interest owing (1.5% rate for 100.00% of year)
 2009 \$384.92: \$0.00 interest owing (0% rate for 100.00% of year)
 2010 \$387.82: \$0.00 interest owing (0% rate for 100.00% of year)
 2011 \$387.82: \$0.00 interest owing (0% rate for 100.00% of year)
 2012 \$387.82: \$0.00 interest owing (0% rate for 100.00% of year)
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 2017 \$387.82: \$0.00 interest owing (0% rate for 100.00% of year)
 2018 \$387.82: \$0.00 interest owing (0% rate for 24.92% of year)

The interest payable, \$27.82, does not get doubled, pursuant to section 38 of the Act. The original balance of \$360.00 is doubled, as per section 38 (6)(b), and the interest is added to this amount, which I find equals \$747.82. The Landlords have already returned \$360.00, which I find leaves \$387.82 still owing to the Tenant with respect to the security deposit and interest.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant was successful in this hearing, I also order the Landlord to repay the \$100.00 fee the Tenant paid to make the application for dispute resolution.

In summary, I issue the Tenant a monetary order for \$487.82 based on the Landlord's failure to deal with the security deposit in accordance with section 38 of the *Act*.

Conclusion

I grant the Tenant a monetary order in the amount of **\$487.82**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may

file the order in the Provincial Court (Small Claims) and be 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: October 2, 2018

Residential Tenancy Branch