



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

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 18, 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 his agent attended the hearing. However, the Landlord did not. The Tenant stated that he sent his application and evidence to the Landlord by registered mail on March 28, 2018. Pursuant to section 88 and 90 of the Act, I deem the Landlord has been served with the package 5 days after it was mailed, April 2, 2018.

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 confirmed that the he paid a security and pet deposit of \$850.00 and that the Landlord still holds this amount. The Tenant also confirmed that the he left the rental on November 29, 2017, the same day the move-out inspection was done.

The Tenant stated that he did not authorize the Landlord to retain any of the deposit. The Tenant stated that he gave his forwarding address in writing on October 30, 2017, at the same time he gave the Landlord his written Notice that he would be moving out. The Tenant stated that he gave this letter to the Landlord.

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 confirmed that he moved out of the rental unit on November 29, 2017, which I find reflects the end of the tenancy. The Tenant gave the Landlord his forwarding address in writing on October 30, 2017, well before he actually moved out.

I note the Tenant did not authorize any deductions from the security deposit. I also note that there was a move-in and move-out inspection and I find neither party extinguished their right to the security deposit.

Pursuant to section 38(1) of the *Act*, the Landlord had 15 days from the latter of either the receipt of the forwarding address in writing (end of October 2017) or the date the tenancy ends (November 29, 2017) 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*. There is no evidence the Landlord has returned any of the deposits.

Accordingly, as per section 38(6)(b) of the *Act*, I find the Tenant is entitled to recover double the amount of the security and pet deposit (\$850.00 x 2).

In summary, I issue the Tenant a monetary order for \$1,700.00 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 **\$1,700.00**. 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 19, 2018

Residential Tenancy Branch