



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit and for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord was represented by his agent.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issue to be Decided

Did the tenant provide the landlord with her forwarding address in writing? Did the landlord return the security deposit in a timely manner? Is the tenant entitled to the return of double the deposit? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

Both parties agreed to the following: The tenancy started on December 01, 2017 and ended on April 30, 2018. The monthly rent was \$1,200.00. Prior to moving in the tenant paid a security deposit of \$600.00.

The landlord agreed that he received the tenant's forwarding address in writing on or about May 03, 2018. The landlord stated that he attempted to come to an agreement with the tenant to allow him to retain a portion of the deposit towards cleaning the rental unit and the tenant did not agree to allow him to do so.

Despite the tenant's refusal to allow the landlord to retain a portion of the deposit, the landlord went ahead and did so. The landlord returned \$72.38 to the tenant by a cheque dated May 07, 2018. The tenant still has the cheque in her possession and has not cashed it.

On July 01, 2018, the tenant made this application for the return of the security deposit and for the recovery of the filing fee.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

In this case, the tenant sent the landlord her forwarding address by email on May 03, 2018. On May 07, 2018, the landlord made a deduction off the deposit without the tenant's consent and sent the tenant a cheque for the balance of \$72.38. On July 01, 2018, the tenant made this application.

Based on the above, I find that the landlord failed to repay the entire deposit or make an application for dispute resolution within 15 days of the receipt of the forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The total security deposit paid was \$600.00. Accordingly, the landlord must return \$1,200.00 to the tenant. Since the tenant has proven her case she is also entitled to the recovery of the filing fee of \$100.00. Overall the tenant has established a claim of \$1,300.00. The landlord has already returned \$72.38 to the tenant and therefore the tenant is entitled to the balance of \$1,227.62

Accordingly, I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount which represents double the security deposit plus the filing fee minus the amount returned to the tenant. This order may be filed in the Small Claims Court and enforced as an order of that Court.

In regards to the landlord's claims relating to a loss that he may have suffered, I am not able to hear or consider the landlord's claim during these proceedings as this hearing was convened solely to deal with the tenant's application. The landlord is at liberty to file his own application for damages against the tenant.

Conclusion

I grant the tenant a monetary order in the amount of **\$1,227.62**.

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 23, 2018

Residential Tenancy Branch