



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, MNSD

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38; and
- authorization to recover the filing fee for its application from the landlord, pursuant to section 72.

This hearing dealt with an application by the tenants for the return of double the security and pet deposits paid to the landlord and for the return of the filing fee for the Application, under the Residential Tenancy Act (the "Act").

Only the tenants appeared at the hearing. The tenants provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The tenants testified and supplied documentary evidence that they served the landlords with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on May 1, 2018. Section 90 of the Act deems that a party is served five days later when registered mail is used. I find the landlords have been deemed served in accordance with sections 89 and 90 of Act. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue to be Decided

Are the tenants entitled to a monetary award equivalent to double the value of their security deposit as a result of the landlord's failure to comply with the provisions of section 38 of the Act?

Are the tenants entitled to recover the filing fee for this application from the landlord?

Background, Evidence

The tenant's testimony is as follows. The tenancy began on February 1, 2017 and ended on March 31, 2018. The tenants were obligated to pay \$1950.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$975.00.00 security deposit and a \$975.00 pet deposit. MG testified that \$1850.00 was returned to the

tenants but \$100.00 was withheld by the landlord without the tenants' written permission. MG testified that she is seeking the return of double the deposit \$3900. minus the \$1850.00 previously returned plus the \$100.00 filing fee for a total claim of \$2050.00.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the tenants, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below.

The tenants said they are applying for the return of double the security deposit as the landlord has not complied with the s. 38 of the *Residential Tenancy Act*.

The tenants testified that there was a signed tenancy agreement which they have a copy of. The tenants testified that they made their security deposit and pet deposit payment by way of electronic transfer. The tenants testified that they have that documentation; however the tenants did not submit that documentation for this hearing. The tenants have not provided sufficient evidence to support their claim or corroborate the amount of deposits paid and when.

Based on the above and on the basis of insufficient evidence, I dismiss this application in its entirety.

Conclusion

The tenants' application is dismissed in its entirety without leave to reapply.

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: November 01, 2018

Residential Tenancy Branch