



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of the security deposit and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call. The tenant testified that the landlord was served with the Tenant's Application for Dispute Resolution and notice of this hearing (the Hearing Package) by registered mail on August 11, 2018 at the address provided by the landlord on a Mutual Agreement to End Tenancy. The tenant was permitted to provide proof of such service after the hearing had concluded. I have now received a copy of a Registered Domestic Customer Receipt addressed to the landlord as well as a Canada Post cash register receipt dated August 11, 2018. The tenant testified that the registered mail was returned to the tenant marked "Unclaimed" on August 24, 2018.

The *Residential Tenancy Act* states that documents served by registered mail are deemed to have been served 5 days after mailing. The landlord provided an address for service, and I am satisfied that the landlord has been served in accordance with the *Act*.

All evidence provided by the tenant has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?

Background and Evidence

The tenant testified that this tenancy began on July 1, 2015. The landlord passed away and the rental unit was purchased by the current landlord, who took over in June, 2017. The Executor downloaded a new tenancy agreement, and told the new landlord and the tenant to sign it, which they did. The tenant didn't get a copy and the executor said it was just a basic tenancy agreement, nothing out of the ordinary and not important. However, the tenant has provided a copy of the original tenancy agreement with the past landlord as evidence for this hearing.

Rent in the amount of \$750.00 per month was payable on the last business banking day of the previous month, however the tenant testified that he paid on the 1st day of each month. The parties entered into a mutual agreement to end the tenancy in writing effective June 15, 2018 at 12:00 p.m., however the tenant found alternate accommodation for June 1, 2018 and actually moved out of this rental unit on June 6, 2018.

The tenancy agreement specifies a security deposit in the amount of half a month's rent. The tenant testified that he paid \$380.00 at the outset of the tenancy and no pet damage deposit was paid. The tenant was permitted to send proof of such payment after the hearing had concluded, and a receipt has been provided.

On June 20, 2018 the tenant sent a text message to the landlord which contains a forwarding address of the tenant. A copy has been provided for this hearing, which also indicates that the tenant had previously left a voice mail message for the landlord. On June 22, 2018 the tenant sent a letter to the landlord by regular mail to the address of the landlord contained in the Mutual Agreement to End Tenancy, requesting return of the security deposit. A copy has been provided for this hearing and the letter contains a forwarding address of the tenant. The landlord has not responded and has not returned any portion of the security deposit. The tenant has not been served with an Application for Dispute Resolution by the landlord claiming against the security deposit.

Analysis

The *Residential Tenancy Act* is clear; a landlord must repay a security deposit or pet damage deposit in full to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an application for dispute resolution claiming against the deposit(s) within that 15 day period. If the landlord fails to do either, the landlord must repay double the amount to the tenant.

In this case, I accept the undisputed testimony of the tenant that the tenancy ended on June 15, 2018. I am also satisfied that the landlord received the tenant's forwarding address in writing on June 27, 2018, being 5 days after the letter was mailed. I am also satisfied that the landlord has not returned any portion of the security deposit to the tenant. The tenant testified that the landlord has not served an Application for Dispute Resolution, and I have no such application before me. Therefore, I find that the landlord must repay double the amount, or \$760.00.

Since the tenant has been successful with the application the tenant is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$860.00.

This order is final and binding and may be enforced.

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: December 11, 2018

Residential Tenancy Branch