



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

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 confirmed that he paid a security deposit of \$625.00 and that the Landlord still holds this amount. The Tenant stated that a final move-out inspection was completed on July 31, 2018, the same day the keys were returned. The Tenant stated that he never signed the condition inspection report because he did not agree with the charges or allegations. The Tenant stated that he hand delivered his forwarding address in writing to the Landlord at her office on July 31, 2018, after the move-out inspection was done.

The Tenant stated that he has received no money back, and the Landlord still holds the full security deposit, and has not filed an application against it. The Tenant is looking for double the security deposit because the Landlord has arbitrarily kept their money.

Analysis

Based on the undisputed 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, I find the tenancy ended on July 31, 2018, the day the Tenant did the final move-out inspection and returned the keys. The Tenant stated he personally served the Landlord with his forwarding address later that day. I find the Landlord was served with the Tenant's forwarding address on this day, July 31, 2018, which was the same day the tenancy ended.

I note the Tenant did not authorize any deductions from the security deposit. I also note that, as per the testimony and evidence, there was a move-in and a move-out inspection, and it appears neither party extinguished their right to 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 August 15, 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 (\$625.00 x 2). 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 \$1,350.00 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 **\$1,350.00**. 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: January 8, 2019

Residential Tenancy Branch