



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

On August 31, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for the Landlord to return of all or part of the pet damage deposit or security deposit, and to recover the filing fee for the Application.

The Tenant and the Landlord appeared at the hearing. The hearing process was explained and the parties were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Tenant entitled to the return of double the security deposit?

Background and Evidence

The Tenant testified that the tenancy began on September 30, 2016, and ended on September 17, 2017. Rent in the amount of \$1,525.00 was due by the first day of each month. The Tenant paid the original Landlord a security deposit of \$762.50. The original Landlord sold the rental unit to the Landlord during the tenancy. The Landlord testified that she received the security deposit of \$762.50 from the original Landlord.

The Tenant testified that the Landlord did not return the security deposit after the Tenant moved out of the rental unit.

The Tenant testified that there was no agreement that the Landlord could retain any amount of the security deposit at the end of the tenancy.

The Tenant testified that she left her forwarding address for the Landlord inside the rental unit at the end of the tenancy. The Tenant provided a copy of her forwarding address in writing.

The Tenant testified that the Landlord did not apply for dispute resolution to make a claim against the security deposit.

In reply, the Landlord confirmed that she received the Tenant's forwarding address that was left in the rental unit. When asked why she did not return or make claim against the security deposit within 15 days, the Landlord stated that she was not aware of her obligation under the Act.

Analysis

Based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

Section 38 (1) of the Act states that within 15 days after the later of the date the tenancy ends, and the date the Landlord receives the Tenant's forwarding address in writing, the Landlord must repay any security deposit or pet damage deposit to the Tenant with interest calculated in accordance with the regulations, or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Residential Tenancy Policy Guideline # 17 Security Deposit and Set Off states

If the landlord does not return or file for dispute resolution to retain the deposit within fifteen days, and does not have the tenant's agreement to keep the deposit, the landlord must pay the tenant double the amount of the deposit.

I find that the Tenant provided her forwarding address to the Landlord on September 17, 2017. There is no evidence before me that the Landlord applied for dispute resolution within 15 days of receiving the Tenant's forwarding address. I find that there was no written agreement that the Landlord could retain the security deposit.

I find that the Landlord breached section 38 of the Act. Pursuant to section 38(6) of the Act, the Landlord must pay the Tenant double the amount of the security deposit.

I order the Landlord to pay the Tenant the amount of \$1,525.00.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

I grant the Tenant a monetary order in the amount of \$1,625.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

Conclusion

The Landlord failed to return the security deposit to the Tenant in accordance with the legislation.

The Tenant is granted double the amount of the security deposit and the recovery of the filing fee. I grant the Tenant a monetary order in the amount of \$1,625.00.

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 10, 2019

Residential Tenancy Branch