



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding URBAN VISION HOUSING and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction

On October 10, 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.

The Tenant appeared at the hearing; however, the Landlords did not. The Tenant was assisted by an advocate. The Tenant provided affirmed testimony that he served the Landlord with the Notice of Dispute Resolution Proceeding using Canada Post Registered Mail on October 10, 2018. The Tenant provided the Registered Mail receipt number and confirmation that the mail was delivered on October 11, 2018 as proof of service. I find that that the Notice of Hearing was served to the Landlord in accordance with sections 89 and 90 of the Act and the Notice of Dispute Resolution Proceeding is deemed to have been received by the Landlord.

The hearing process was explained and the Tenant was asked if he had any questions. The Tenant provided affirmed testimony and was provided the opportunity to present his 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 the security deposit?

Background and Evidence

The Tenant testified that the tenancy began on June 1, 2018, and ended on July 25, 2018. Rent in the amount of \$650.00 was due by the first day of each month. The Ministry paid the Landlord a security deposit of \$325.00 on behalf of the Tenant. The Tenant provided an email document from the Ministry confirming that the security deposit of \$325.00 was paid to the Landlord and cashed on May 31, 2018.

The Tenant testified that the tenancy agreement was for the address listed in the application as the dispute address; however, the room had not been vacated and the Landlord moved the Tenant to a different unit. The Tenant testified that the move was supposed to be temporary; however, the Landlord never moved him to the dispute address.

The Tenant testified that the Landlord did not return the security deposit after he 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.

The Tenant testified that the Landlord was provided with the Tenant's forwarding address in writing on August 27, 2018. The Tenant testified that his agent served the Landlord in person at the dispute address. The Tenant provided an email from his agent confirming delivery of a letter dated August 17, 2018 containing the Tenants forwarding address. The Tenant provided a copy of the August 17, 2018, letter.

The Tenant is seeking the return of double the amount of his security deposit.

Analysis

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.

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

The Landlord was served with the the Notice of Dispute Resolution Proceeding which is deemed received by the Landlord on October 15, 2018. The Landlord failed to attend the hearing.

I find that the Landlord received a security deposit of \$325.00 on behalf of the Tenant in May 2018.

I find that the Tenant provided his forwarding address to the Landlord on August 27, 2018. 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 agreement from the Tenant that the Landlord could retain the security deposit.

I find that the Landlord's 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 \$650.00. I grant the Tenant a monetary order in the amount of \$650.00. 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 cost of such enforcement is 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. I grant the Tenant a monetary order in the amount of \$650.00.

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: February 04, 2019

Residential Tenancy Branch