



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes MNDCT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) for monetary compensation.

The Tenant and two agents for the Landlord (the “Landlord”) were present for the duration of the teleconference hearing. The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenant’s evidence. The Tenant confirmed receipt of a copy of the Landlord’s evidence package. Neither party brought up any concerns regarding service.

All parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue to be Decided

Is the Tenant entitled to monetary compensation?

Background and Evidence

The parties were in agreement as to the details of the tenancy. The tenancy began on February 15, 2017 and ended on July 31, 2018. Monthly rent was \$884.00 and a security deposit of \$250.00 was paid at the outset of the tenancy.

The Tenant applied for compensation in the amount of \$250.00, which is equivalent to the amount of her security deposit. She stated that she is requesting this amount due to not receiving the security deposit back within the required 15 days and therefore requesting that double the security deposit amount be paid.

The Tenant testified that she moved out on July 27 or July 28, 2018 which is when the move-out inspection was completed with the Landlord and when her forwarding address was provided. She stated that at this time she was told that she would receive her security deposit back within 10 days. As she had still not received the deposit by August 20, 2018, she spoke to an agent for the Landlord and was told that a cheque had been mailed.

The Tenant stated that as she had not received the cheque, the Landlord advised her that they could issue a new cheque or send an e-transfer. The Tenant testified that she accepted an e-transfer on or around August 31, 2018 which is the same day that the cheque arrived in the mail. The Tenant stated that as the cheque had been cancelled and the funds received electronically, she mailed the cheque back to the Landlord.

The Tenant submitted into evidence a copy of her letter to end the tenancy, dated June 5, 2018, proof that the deposit was accepted through e-transfer on August 30, 2018, and email communication with the Landlord regarding the deposit.

The Landlord testified that they mailed the cheque for \$250.00 on August 13, 2018. They stated that they received the Tenant's forwarding address on July 31, 2018, the same day that the tenancy ended. As the Tenant told them that she had not received the cheque, they cancelled it and sent the Tenant an e-transfer for the full return of the security deposit on August 30, 2018. They stated that they were not withholding the security deposit and sent it on August 13, 2018, which was within 15 days.

The Landlord submitted into evidence email exchanges with the Tenant regarding the deposit return. They also submitted a copy of the cheque dated August 13, 2018 in the amount of \$250.00 and a copy of the envelope with a stamp showing the mailing date as August 13, 2018. The Landlord stated that they were unsure why the Tenant did not receive the mail sooner as it was mailed on August 13, 2018. The Landlord also submitted the bank information showing that an e-transfer was accepted by the Tenant on August 30, 2018.

Analysis

Section 38(1) of the *Act* states the following:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

If a landlord does not comply with Section 38(1), then Section 38(6) of the *Act* applies, and the tenant is entitled to the return of double the deposit amounts.

Although the Tenant may have moved out a few days earlier, I find that the tenancy ended on July 31, 2018, at the end of the rental month. The Tenant stated that her forwarding address was provided on or around July 27 or July 28, 2018, while the Landlord stated that the forwarding address was received on July 31, 2018. However, regardless of the exact date that the Tenant's forwarding address was received, I find that the Landlord had 15 days from the later of this date or the end of tenancy date, as stated in Section 38(1) of the *Act*.

Therefore, I find that the Landlord had 15 days from July 31, 2018 to return the security deposit. I accept the evidence of the Landlord that shows that a cheque in the amount of \$250.00 was issued on August 13, 2018 and sent the same day as evidenced by the stamp on the envelope that is also dated August 13, 2018. Although the Tenant did not receive the envelope with the cheque until on or around August 30, 2018, I accept the evidence before me that the Landlord repaid the security deposit on August 13, 2018, within 15 days of the date the tenancy ended. The Tenant does not have to receive the mail within 15 days for the deposit to be repaid in time.

The parties agreed that the security deposit had been returned but were not in agreement as to whether the Tenant was entitled to the return of double the deposit

amount. However, as the Landlord repaid the deposit within 15 days, I find that they complied with Section 38(1) of the *Act*. Therefore, Section 38(6) of the *Act* does not apply, and the Tenant is not entitled to the return of double the security deposit. The Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

Conclusion

The Tenant's Application for Dispute Resolution is dismissed, 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: February 19, 2019

Residential Tenancy Branch