



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding POLSON PARK MOTEL and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction

On January 15, 2019, 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 appeared at the hearing; however, the Landlord did not. The Tenant provided affirmed testimony that she served the Landlord with the Notice of Dispute Resolution proceeding using Canada Post Registered Mail sent on January 17, 2019. The Tenant provided the registered mail tracking number as proof of service. I find that that the Notice of Dispute Resolution Proceeding 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 on January 22, 2019, the fifth day after it was mailed.

The hearing process was explained and the Tenant was asked if she had any questions. The Tenant provided affirmed testimony and was provided the opportunity to present her 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 a security deposit and pet damage deposit?

Background and Evidence

The Tenant testified that the tenancy was at a motel. She testified that the unit was her primary residence and that she had exclusive possession of the unit. The Tenant testified that the tenancy began in April 2018, and ended eight months later on November 12, 2018. The Tenant testified that the tenancy agreement was on a month to month basis. The Tenant testified that rent in the amount of \$1,000.00 was due by the 12th day of each month. The Tenant testified that she paid the Landlord a security deposit of \$1,500.00.

The Tenant testified that the Landlord did not return any amount of the security deposit or pet damage 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 or pet damage deposit.

The Tenant testified that she provided the Landlord with her forwarding address in writing on December 13, 2018. The Tenant testified that she sent the letter to the Landlord on using regular mail on December 13, 2018. The Tenant provided a copy of the letter that was sent to the Landlord. The Letter indicates that the Tenant is requesting that the Landlord return \$1,500.00 for a security deposit and pet damage deposit and provides The Tenant's forwarding address.

The Tenant testified that the Landlord, Ms. H. treated her poorly during the tenancy and would not deal with a bedbug infestation.

Analysis

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

The Landlord was served with the Notice of Dispute Resolution Proceeding and failed to attend the hearing to respond to the Tenant's claim.

I find that the parties entered into a tenancy agreement on a month to month basis that continued for eight months. I find that the Tenant had exclusive possession of the rental unit and it was the Tenant's permanent residence during this period.

I accept the Tenant's affirmed testimony that she paid the Landlord a security deposit of \$1,000.00 and a pet damage deposit of \$500.00.

I find that the Tenant provided her forwarding address to the Landlord on December 13, 2018, using regular mail. The Landlord is deemed under the Act to have received the Tenant's forwarding address on December 18, 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 any amount of the security deposit or pet damage 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 and pet damage deposit.

I order the Landlord to pay the Tenant the amount of \$3,000.00. I grant the Tenant a monetary order in the amount of \$3,000.00. 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 was served with the Notice of Dispute Resolution Proceeding and failed to attend the hearing to respond to the Tenant's claims.

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

The Tenant is granted double the amount of the security deposit and pet damage deposit. I grant the Tenants a monetary order in the amount of \$3,000.00.

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 26, 2019

Residential Tenancy Branch