



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

On November 14, 2018, the Tenants 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 matter was scheduled as a teleconference hearing. The Tenant, Ms. M.K. appeared at the hearing; however, the Landlords did not.

The Tenant provided affirmed testimony that she served the Landlords with the Notice of Dispute Resolution Proceeding documents in person on November 20, 2018. The Tenant testified that the Landlord never provided her with a contact address or email address. The Tenant called the Landlord and arranged to meet the Landlord, Ms. Y.T.C. in front of the rental unit on November 20, 2018. The Tenant testified that she served the hearing documents to Ms. Y.T.C. I find that that the Notice of Hearing documents were served on the Landlords and the Landlords failed to appear.

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

- Are the Tenants entitled to the return of double the security deposit?

Background and Evidence

The Tenant testified that the tenancy began on October 1, 2018, and ended on November 1, 2018. Rent in the amount of \$1,900.00 was due by the first day of each month. The Tenants paid the Landlord a security deposit of \$950.00.

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

The Tenant testified that she provided the Landlord with her forwarding address in writing by sending a text message to the Landlord on October 30, 2018. The Tenant testified that the Landlord failed to provide any other means of contact for communication. The Tenant provided a copy of the text message where she provides her forwarding address. The Landlord responded to the text message by sending the Tenant a short message shortly after.

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

The Tenant is seeking \$1,900.00 which is double the amount of the security deposit.

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 Tenants provided their forwarding address to the Landlords on October 30, 2018. I accept that the Tenants testimony that she had no other method of communication with the Landlord, and I find that the Landlord received the text message because she responded to it shortly after it was sent. I find that the Landlord was sufficiently served with the Tenants forwarding address for the purposes of the Act.

There is no evidence before me that the Landlords applied for dispute resolution within 15 days of receiving the Tenants forwarding address. I find that there was no agreement from the Tenants that the Landlords could retain the security deposit.

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

I order the Landlords to pay the Tenants the amount of \$1,900.00. I grant the Tenants a monetary order in the amount of \$1,900.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlords are cautioned that costs of such enforcement are recoverable from the Landlord.

Conclusion

The Landlords failed to return the security deposit to the Tenants in accordance with the legislation.

The Tenants are granted double the amount of the security deposit. I grant the Tenants a monetary order in the amount of \$1,900.00.

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: March 19, 2019

Residential Tenancy Branch