



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT MNSD

Introduction

This hearing was scheduled to convene at 1:30 p.m. this date by way of conference call concerning an application made by the tenant seeking a monetary order for return of the pet damage deposit and security deposit and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, gave affirmed testimony, and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call. The tenant testified that the landlord was served with the Application for Dispute Resolution and notice of this hearing (the Hearing Package) by registered mail on March 30, 2019 and has provided a copy of a Canada Post cash register receipt bearing that date, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for all or part or double the amount of the pet damage deposit or security deposit?

Background and Evidence

The tenant testified that the rental unit was previously rented to her and another tenant in January, 2018. When the other tenant moved out, the landlord and tenant entered into a new fixed term tenancy to begin on October 15, 2018 and to expire after 6 months. The tenant vacated the rental unit on March 1, 2019.

Rent in the amount of \$1,750.00 per month was payable on the 1st day of each month, and there are no rental arrears. In January, 2018 the landlord collected a security deposit from the tenant in the amount of \$875.00 as well as a pet damage deposit in the amount of \$875.00, both of which are still held in trust by the landlord.

A copy of the first page only of the tenancy agreement has been provided for this hearing indicating the names of the tenant and the landlord, as well as the address for service of the landlord. On March 6, 2019 the tenant went to that residence to give the landlord her forwarding address in writing, but could only get as far as the gate because a fob was required for entering the property. The tenant placed the note in the gate and took a photograph. The tenant also took a photograph of the address as it appeared on a sign on the gate. The photographs have been provided as evidence for this hearing, and the address matches that of the landlord on the first page of the tenancy agreement. A copy of the note has also been provided as evidence for this hearing. It is dated March 5, 2019 and it contains a forwarding address of the tenant. The tenant also testified that another copy of the note was sent to the landlord at that address by registered mail on March 8, 2019, which was returned to the tenant unclaimed.

The landlord has not returned any portion of the security deposit or pet damage deposit and has not served the tenant with an Application for Dispute Resolution claiming against the deposit.

Considering that the tenant has provided a portion of the tenancy agreement, I permitted the tenant to upload the rest of the tenancy agreement as evidence for this hearing. I have now received 1 additional page of the tenancy agreement, as well as a number of other items, which are not considered in this Decision.

Analysis

The *Residential Tenancy Act* is very clear: a landlord must return a pet damage deposit and/or security deposit to a tenant in full within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an Application for Dispute Resolution claiming against the security deposit within that 15 day period. If the landlord fails to do either, the landlord must repay double the amount(s).

In this case, considering the undisputed testimony of the tenant, I find that the tenancy ended on March 1, 2019. The tenant attempted to give the landlord her forwarding address in writing, but the landlord did not claim the registered mail. The tenant has also provided proof that she delivered it to the landlord's residence, at an address of the

landlord as stated in the tenancy agreement, and placed it in the gate. Considering the photographs and the undisputed testimony of the tenant that she could only get as far as the gate because a fob is required, I am satisfied that the tenant left the note in a conspicuous place at an address provided by the landlord. Documents delivered by that method are deemed to have been received 3 days later, or in this case, March 9, 2019. The landlord has not returned any portion of either of the deposits and has not served the tenant with an Application for Dispute Resolution, and I have no such application before me. Therefore, I find that the tenant is entitled to double the amounts.

The tenant testified that the deposits were \$875.00, however the tenancy agreement specifies \$850.00 for a security deposit and \$850.00 for a pet damage deposit, and I grant a monetary order in the amount of \$3,400.00.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord, pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$3,500.00.

This order is final and binding and may be enforced.

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: May 31, 2019

Residential Tenancy Branch