



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for a monetary claim of \$1,500.00 consisting of the return of double the security deposit, and to recover the \$100.00 cost of their Application filing fee.

The Tenant and the Landlord appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and respond to the testimony of the other Party.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the decision would be emailed to both Parties and any orders sent to the appropriate Party.

I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"). However, only the evidence relevant to the issues and findings in this matter are described in this decision. At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

Issue(s) to be Decided

- Is the Tenant entitled to a monetary order for double the security deposit from the Landlord?
- Is the Tenant entitled to recovery of the \$100.00 Application filing fee?

Background and Evidence

The Parties agreed that the fixed term tenancy began on August 1, 2018, and was to run to June 30, 2019, with a monthly rent of \$1,400.00, due on the first day of each month. The Parties agreed that the Tenant paid a security deposit of \$700.00, and no pet damage deposit.

The Parties discussed the discordant end of the tenancy that occurred; however, these submissions were not relevant to the issues that are before me in this Application. The Landlord is at liberty to apply for dispute resolution for matters on which he testified in the hearing.

The Tenant's undisputed evidence is that he provided the Landlord with his forwarding address in a letter sent via registered mail on January 16, 2019. Pursuant to section 90 of the Act, this is deemed received on the fifth day after it is mailed, which would be January 21, 2019. The Tenant's undisputed evidence is that he vacated the rental unit on December 21, 2018.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

I find that the Landlord received the Tenant's forwarding address on January 21, 2019, and that the tenancy ended on December 21, 2018. 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.

The Landlord was required to return the \$700.00 security deposit within fifteen days after January 21, 2019, namely by February 5, 2019, or to apply for RTB dispute resolution to claim against the security deposit, pursuant to Section 38(1)(d). The Landlord provided no evidence that he returned any amount to the Tenant or made an RTB application to claim against the

deposit. Therefore, I find the Landlord has failed to comply with his obligations under Section 38(1) of the Act.

Section 38(6)(b) states that if a Landlord does not comply with section 38(1) that the Landlord must pay the Tenant double the amount of the security deposit. There is no interest payable on the security deposit.

I, therefore, award the Tenant \$1,400.00 from the Landlord in recovery of double the security deposit. Given that the Tenant was successful in his Application, I also award him recovery of the \$100.00 Application filing fee.

Conclusion

The Tenant's claim against the Landlord for return of double the security deposit is successful in the amount of \$1,400.00. The Landlord did not return the Tenant's security deposit or apply for dispute resolution within 15 days of the later of the end of the tenancy and the date Landlord received the Tenant's forwarding address. I award the Tenant with double the amount of the \$700.00 security deposit, plus recovery of the \$100.00 Application filing fee.

I grant the Tenant a monetary order under section 67 of the Act from the Landlords in the amount of \$1,500.00.

This order must be served on the Landlords by the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the Parties, unless otherwise provided under the

Act, and 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: June 26, 2019

Residential Tenancy Branch