



Dispute Resolution Services

Page: 1

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 order for the return of double the \$1,200.00 security deposit, and to recover the \$100.00 cost of his 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.

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.

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.

Issue(s) to be Decided

- Is the Tenant entitled to a monetary order, and if so, in what amount?
- Is the Tenant entitled to recovery of the Application filing fee?

Background and Evidence

The Parties agreed that the fixed term tenancy began on December 15, 2017, and was to run to December 14, 2018, and then become a periodic tenancy. The Parties agreed that the Tenant paid the Landlord a monthly rent of \$2,400.00, due on the first day of each month. The Parties agreed that the Tenant paid the Landlord a security deposit of \$1,200.00, and no pet damage deposit.

The Tenant said in the hearing that he gave the Landlord a month's notice that he was moving out in December 2018, in order to move in with his girlfriend. The Parties agreed that the last day of the tenancy was December 15, 2018.

The Parties agreed that the Tenant met the Landlord's father on December 15, 2018, to do an outgoing inspection of the condition of the rental unit; however, the Parties disagreed on whether the outgoing condition inspection was completed at this time or not. The Landlord said that it was too dark to do the walk-through at the time the Parties agreed to meet, and that they agreed to do it the next day at 9 a.m. The Tenant denied this, saying that he and the Landlord's father completed the condition inspection on December 15, 2018. The Parties agreed that the Tenant provided the Landlord's father with his forwarding address in writing on December 15, 2018.

Analysis

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

The Parties spent much of the time in the hearing disagreeing about whether the move-out inspection was completed on December 15, 2018, or not. I find that this is not relevant to the limited scope of this hearing, which deals with the details of the return of the security deposit. Accordingly, I make no findings as to the move-out condition inspection, other than that the Parties agreed that the Tenant provided his forwarding address to the Landlord in writing on December 15, 2018.

I find that the tenancy ended and that the Tenant provided his forwarding address to the Landlord in writing on December 15, 2019. Section 38(1) of the Act states the following about the connection of these dates to a landlord's requirements surrounding the return of the security deposit:

Section 38 of the Act states:

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 \$1,200.00 security deposit within fifteen days December 15, 2018, namely by December 30, 2018, or to apply for dispute resolution to claim against the security deposit, pursuant to Section 38(1). The Landlord provided no evidence that he returned any amount of the security deposit or applied to the RTB for dispute resolution, claiming against the security deposit. Therefore, I find the Landlord failed to comply with his obligations under Section 38(1).

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 \$2,400.00 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 for a total award of \$2,500.00.

Conclusion

The Tenant's claim against the Landlord for return of double the security deposit is

successful in the amount of \$2,400.00. 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 Landlord receiving the Tenant's forwarding address. I award the Tenant with double the \$1,200.00 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 Landlord in the amount of \$2,500.00.

This order must be served on the Landlord 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: July 15, 2019

Residential Tenancy Branch