



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of the remainder of the tenant's security deposit, pursuant to section 38.

The "male landlord" did not attend this hearing, which lasted approximately 16 minutes. The female landlord ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord confirmed that she had permission to represent the male landlord at this hearing (collectively "landlords"). The landlord intended to call a witness at this hearing. However, the witness was not required as the landlord claimed that the testimony related to the landlords' claim that the tenant caused damages, which is not part of this application.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both landlords were duly served with the tenant's application. The landlords did not provide any written evidence for this hearing.

Issue to be Decided

Is the tenant entitled to obtain a return of the remainder of her security deposit?

Background and Evidence

While I have turned my mind to the tenant's documentary evidence and the testimony of both parties, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on September 1, 2017 and ended on May 1, 2019. Monthly rent in the amount of \$780.00 was payable on the first day of each month. A security deposit of \$390.00 was paid by the tenant and the landlord returned \$176.00 to the tenant and retained \$214.00. A written tenancy agreement was signed by both parties. No move-in or move-out condition inspection reports were completed for this tenancy. The landlords received a written forwarding address from the tenant by way of a letter on May 21, 2019. The landlords did not have any written permission to retain any amount from the tenant's security deposit. The landlords did not file an application for dispute resolution to retain any amount from the tenant's security deposit.

The tenant seeks a return of the remainder of her security deposit of \$214.00. The landlords dispute the tenant's application.

Analysis

Section 38 of the *Act* requires the landlords to either return the tenant's security deposit or file for dispute resolution for authorization to retain the deposit, within 15 days after the later of the end of a tenancy and the tenant's provision of a forwarding address in writing. If that does not occur, the landlords are required to pay a monetary award, pursuant to section 38(6)(b) of the *Act*, equivalent to double the value of the deposit. However, this provision does not apply if the landlords have obtained the tenant's written authorization to retain all or a portion of the deposit to offset damages or losses arising out of the tenancy (section 38(4)(a)) or an amount that the Director has previously ordered the tenant to pay to the landlords, which remains unpaid at the end of the tenancy (section 38(3)(b)).

I make the following findings based on the testimony of both parties. The tenancy ended on May 1, 2019. The tenant provided a written forwarding address by way of a letter on May 21, 2019, which was received by the landlords.

The tenant did not give the landlords written permission to retain any amount from her security deposit. The landlords did not return the full deposit or make an application for dispute resolution to claim against the deposit.

In accordance with section 38(6)(b) of the Act and Residential Tenancy Policy Guideline 17, I find that the tenant is entitled to receive double the value of her security deposit of \$390.00, totaling \$780.00, minus the \$176.00 portion already returned to the tenant, for a balance owing of \$604.00. There is no interest payable on the deposit during the period of this tenancy. Although the tenant did not apply for the return of double her security deposit, she is not required to, as I must consider the doubling provision. The tenant did not waive her right to claim double the value of the security deposit.

Conclusion

I issue a monetary Order in the tenant's favour in the amount of \$604.00 against the landlord(s). The landlord(s) must be served with this Order as soon as possible. Should the landlord(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: September 02, 2019

Residential Tenancy Branch