



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) for the return of the security deposit and/or pet damage deposit.

The Tenant was present for the hearing while no one called in for the Landlord during the approximately 22 minutes that the phone line was monitored. The Tenant was affirmed to be truthful in her testimony and stated that the Notice of Dispute Resolution Proceeding package and a copy of her evidence was served to the Landlord by registered mail at the service address provided by the Landlord on the tenancy agreement. The Tenant provided the registered mail tracking number which is included on the front page of this decision. The Tenant stated that the registered mail was delivered on May 31, 2019. As such, I find that the Landlord was served by registered mail on May 31, 2019 in accordance with Sections 88 and 89 of the *Act*.

Issue to be Decided

Is the Tenant entitled to the return of the security deposit and/or pet damage deposit?

Background and Evidence

The Tenant provided undisputed testimony on the tenancy, some of which was confirmed by the tenancy agreement and the ‘application for tenancy’ which was submitted into evidence. The tenancy started on April 15, 2011 and ended on February 28, 2019. Monthly rent at the end of the tenancy was \$740.00. A security deposit of \$362.50 and a pet damage deposit of \$150.00 were paid at the start of the tenancy.

The Tenant applied for the return of double the deposits due to not receiving them back within 15 days. She stated that her forwarding address was provided to the Landlord at the move-out inspection and again in a letter she mailed to the Landlord around mid-March 2019. The Tenant stated that she agreed to a deduction of \$172.99 for the electricity bill but that no other deductions were agreed upon.

The Tenant stated that she had not received any amount of her deposit back until September 5, 2019, the day before the hearing, when she received a cheque in the amount of \$339.51. The Tenant was in agreement as to this amount due to the deduction for the utility bill but is still seeking double due to not receiving this amount back within the allowable 15 days.

Analysis

As stated in Section 38(1) of the *Act*, a landlord has 15 days from the later of the date the tenancy ends or the date the forwarding address is provided in writing to return the deposits or file a claim against them.

I accept the undisputed testimony of the Tenant that the tenancy ended on February 28, 2019 and that her forwarding address was provided on this date as well as through a letter sent to the Landlord in mid-March 2019. I also accept the testimony of the Tenant that she had not received any amount of her deposits back until September 5, 2019, which is well beyond the 15 days allowable under the *Act*. I also have no evidence before me that the Landlord filed an Application for Dispute Resolution to retain an amount from the deposits. Therefore, I find that the Landlord was not in compliance with Section 38(1).

Section 38(6) of the *Act* states the following:

- (6) If a landlord does not comply with subsection (1), the landlord
 - (a) may not make a claim against the security deposit or any pet damage deposit, and
 - (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I accept that the Tenant agreed to a deduction of \$172.99 and that she received an amount of \$339.51 back on September 5, 2019. However, as this amount was not

returned within 15 days in accordance with the *Act*, pursuant to Section 38(6), I find that the Tenant is entitled to an additional \$339.51, the amount to double the deposit after the agreed upon deductions. I award the Tenant a Monetary Order in the amount of \$339.51.

Conclusion

Pursuant to Sections 38 and 67 of the *Act*, I grant the Tenant a **Monetary Order** in the amount of **\$339.51** as outlined above. The Tenant is provided with this Order in the above terms and the Landlord must be served with this Order as soon as possible. Should the Landlord 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 06, 2019

Residential Tenancy Branch