



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

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

- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38;
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

The tenant attended the hearing via conference call and provided undisputed testimony. The landlords did not attend or submit any documentary evidence. The tenant stated that the landlords were served with the notice of hearing package and the 9 pages of screen shots regarding text messages between the two parties via Canada Post Registered Mail. I accept the undisputed testimony of both parties and find that although the landlords did not attend, they are deemed served as per section 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of the security deposit and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant seeks a monetary claim of \$500.00 for return of the security deposit and recovery of the \$100.00 filing fee.

The tenant claims that after vacating the rental unit on April 30, 2019, the landlord was served with the tenant's forwarding address in writing for return of the original \$400.00 security deposit on July 9, 2019 in a letter mailed to the landlord's residence. As of the date of this hearing, the landlord has failed to return the security deposit.

Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security and/or pet damage deposit(s) or file for dispute resolution for authorization to retain the security and/or pet damage deposit(s) within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award pursuant to subsection 38(6) of the Act equivalent to the value of the security and/or pet damage deposit(s).

In this case, I accept the undisputed evidence of the tenant and find that the tenant vacated the rental unit on April 30, 2019 and notified the landlord of her forwarding address in writing on July 9, 2019. As such, the tenant has established a claim for the original \$400.00 security deposit.

Pursuant to section 38 (1) of the Act, the landlord having failed to return the security deposit within 15 days of receiving the tenant's forwarding address on July 9, 2019, section 38 (6) applies. The landlord must pay to the tenant an amount equal to the \$400.00 security deposit for failing to comply with the Act.

The tenant having been successful is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The tenant is granted a monetary order for \$900.00.

This order must be served upon the landlords. Should the landlords 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: October 10, 2019

Residential Tenancy Branch