



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 an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for the return of double the security deposit, for the return of rent and for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. As both parties were in attendance, I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issues to be decided

Is the tenant entitled to the return of the security deposit, rent and the filing fee?

Background and Evidence

The parties agreed that the tenancy started on January 15, 2019 for a fixed term of 6 months with an end date of June 15, 2019. The monthly rent was \$750.00 due on the first of each month. Prior to moving in the tenant paid a security deposit of \$375.00.

A copy of the tenancy agreement was filed into evidence. A handwritten note clarifies the amounts of rent to be paid through the tenancy. The tenant was required to pay \$100.00 for the early move in on January 11, 2019. The tenant also paid \$375 for January 15 to January 31, 2019. Starting February 01, 2019 the parties agreed that the tenant would pay \$750.00 on the first of each month and finally on June 01, 2019 the tenant would pay \$375.00 as the tenancy was ending on June 15, 2019. The tenant stated that she paid \$375.00 on June 01, 2019 by e-transfer while the landlord denied having received an e-transfer on that date. The landlord stated that the last e-transfer she received was on May 15, 2019 for \$375.00.

The tenant stated that on June 13, 2019 she posted a handwritten note on the landlord's door with her forwarding address. The landlord denied having received it. The tenant filed a photograph into evidence to support her testimony.

The tenant stated that she made arrangements with a cleaning company to clean her rental unit. The tenant's witness was the cleaning lady who stated that on June 09, 2019 she arrived at the rental unit to clean and found that the door was open, the curtains were drawn, there was a refrigerator on the front lawn, and she could see three people inside the rental unit who appeared to be cleaning the unit. The witness called the tenant while she was at the rental unit to inform the tenant of the situation and left without cleaning the unit. The tenant stated that she visited the unit later that day to clean but found that her key would not work. The tenant stated that the landlord had changed the locks on or before June 09, 2019. The landlord stated that she changed the locks on June 16, 2019.

The tenant is claiming the return of rent for the period of June 09 to June 15, 2019 when she was unable to gain access to the rental unit. The tenant is also claiming the return of double the security deposit and the filing fee.

Analysis

Based on the testimony of both parties and the documents filed into evidence, I find the tenant credible and I prefer her testimony to that of the landlord. I accept that the tenant paid rent on June 01, 2019 as it was clearly noted on the tenancy agreement. The final sentence of the handwritten portion of the tenancy agreement is initialed and dated by the landlord and states as follows:

June 1-June 15 tenant is required to pay \$375 as lease ends on June 15. As agreed w/tenant.

Based on the above, I do not accept the landlord's testimony that the tenant paid the last amount of rent on May 15, 2019 in the amount of \$375.00. I find on a balance of probabilities that it is more likely than not that the tenant paid rent by e-transfer on June 01, 2019.

Regarding the changing of the locks, based on the testimony of the tenant and her witness, I find again on a balance of probabilities that it is more likely than not that the landlord changed the locks on or before June 09, 2019. Therefore I find that the tenant was unable to access the rental unit for six days prior to the end of tenancy. I find that the tenant is entitled to \$150.00 which is the return of prorated rent for these days.

Based on the testimony of the tenant and the photograph filed into evidence, I find that the tenant posted her forwarding address on the landlord's door on June 13, 2019. Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the security deposit.

Based on the above, I find that the landlord failed to repay the deposit or make an application for dispute resolution within 15 days of the receipt of the forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit. The security deposit paid was \$375.00. Accordingly, the landlord must return \$750.00 to the tenant. Since the tenant has proven her case, she is also entitled to the recovery of the filing fee of \$100.00.

Overall the tenant has established a monetary claim for return of rent (\$150.00), return of security deposit (\$750.00) plus the filing fee (\$100.00) for a total of \$1,000.00. Accordingly, I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order for \$1,000.00.

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 25, 2019

Residential Tenancy Branch