



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT, MT, OLC

Introduction

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

- cancellation of the tenants' One Month Notice to End Tenancy for Cause ("Notice") pursuant to section 47;
- request for more time to cancel a notice pursuant to section 66(1);
- order for the landlord to comply with the Act, regulation, and or the tenancy agreement pursuant to section 62(3), specifically, an order that the landlord comply with section 38(1)(c) and return the security deposit interest.
- authorization to recover the filing fee for this application pursuant to section 72.

The landlord (MDR), and his spouse (RS) and the tenant (DEL) attended via conference call hearing. Both were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Preliminary Issue

The tenant testified that she has vacated the rental unit. The tenancy agreement has ended. The landlord has returned the balance of the security deposit and the pet damage deposit but did not return any interest on the security deposit, as such it is not necessary to address the issue of cancelling the Notice.

I will address the interest of the security deposit interest and recovery of the filing fee.

Issue(s) to be Decided

1. Is the tenant entitled to an order for the landlord to comply with the *Act*, regulation or the tenancy agreement pursuant to section 62(3), or specifically an order that the landlord comply with section 38 (1) (c) of *Act*, and return the security deposit interest?

Background and Evidence

The tenancy was a fixed term contract commencing on October 1, 2017 and ending on March 31, 2019, this then continued on a month to month basis. The rent for the rental unit was \$2700.00 per month. At the beginning of the tenancy, the tenant provided a pet damage and security deposit for a total amount of \$1350.00 each. The landlord (MDR) and his spouse, (RS) confirmed the security and pet damage deposit had been returned back to the tenant (DEL). The tenant acknowledged she had received the security deposit and pet damage deposit.

The tenant testified in the hearing that she is of the position that interest payments were due on the security deposit and the pet damage deposit and that she was entitled to the \$100.00 filing fee.

Analysis

Section 38(1)(c) states that a landlord must repay any interest due for the security deposit and pet damage deposit under the regulations.

Return of security deposit and pet damage deposit

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.

I have considered the Residential Tenancy Regulations under the *Residential Tenancy Act*. The interest payable on security deposits and pet damage deposits is 4.5% below the prime lending rate. The current prime lending rate for the Bank of Canada is 3.95%

The Residential Tenancy Policy website advises:

The interest on deposits is determined by section 4 of the Residential Tenancy Regulation:

The rate of interest under section 38 (1) (c) of the Act [return of deposits] that is payable to a tenant on a security deposit or pet damage deposit is 4.5% below the prime lending rate of the principal banker to the Province on the first day of each calendar year, compounded annually.

Since the prime lending rate has been lower than 4.5% since 2009, the interest payable on deposits has been nil.

I find that the tenant is entitled to zero interest on the return of the security and damage deposit interest. I dismiss the tenant's application for an order that the landlord comply with the *Act*, without leave to reapply. As, the tenant has been unsuccessful in this application, I dismiss the recovery of the filing fee.

Conclusion

I dismiss the tenant application to an order that the landlord comply with the *Act*.

I dismiss the tenant's application in its entirety, without leave to reapply.

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: December 05, 2019

Residential Tenancy Branch