



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

On August 15, 2019, the Tenant applied for a Dispute Resolution proceeding seeking a return of the double the security deposit pursuant to Section 38 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant and both Landlords attended the hearing. All in attendance provided a solemn affirmation.

The Tenant advised that she served the Notice of Hearing and evidence package to the Landlords by registered mail on August 27, 2019 and the Landlords confirmed that they received this package. Based on this undisputed testimony, I am satisfied that the Landlords were served the Notice of Hearing and evidence package in accordance with Sections 89 and 90 of the *Act*.

Landlord J.P. advised that their evidence was served to the Tenant by regular mail in September 2019 and the Tenant confirmed that she received this evidence package in September. Based on this undisputed testimony, I am satisfied that the Landlords’ evidence was served in compliance with Rule 3.15 of the Rules of Procedure. As such, I have accepted this evidence, and I will consider it when rendering this decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to a return of double the security deposit?
- Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on November 1, 2018 for a fixed-term ending on October 31, 2019. However, the Tenant gave up vacant possession of the rental unit on July 31, 2019. Rent was established at \$1,950.00 per month and was due on the first of each month. A security deposit of \$975.00 was paid. A copy of the tenancy agreement was submitted as documentary evidence. The tenancy agreement included a liquidated damages clause of \$975.00.

All parties agreed that the Tenant signed the move-out inspection report on July 31, 2019 agreeing to a deduction of \$375.00 from the security deposit. As well, a forwarding address was provided by the Tenant on August 1, 2019 via text and the remaining \$600.00 deposit was returned to the Tenant within 15 days of August 1, 2019.

The Tenant advised that she was seeking compensation in the amount of **\$750.00** because the Landlords withheld \$375.00 out of the deposit for liquidated damages; however, the Landlords suffered no rental loss.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 38(4)(a) of the *Act* states that the Landlords may retain an amount from the security deposit if the Tenant agrees in writing to that amount. The consistent and undisputed testimony is that the Tenant agreed in writing for this \$375.00 deduction to be subtracted from the security deposit. As such, I find that the Tenant's claim has no merit and I dismiss the Tenant's Application in its entirety.

As the Tenant was not successful in her claims, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

Based on my findings above, I dismiss the Tenant's Application 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 9, 2019

Residential Tenancy Branch