



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT, FFT

Introduction

On September 23, 2019 the tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “*Act*”) for the landlord to return all or part of the pet damage deposit or security deposit, for money owed or in compensation for damage or loss, and to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Act* on January 21, 2020. In the conference call hearing I explained the process and provided each party the opportunity to ask questions.

One of the tenants and the landlord attended the hearing, and I provided the opportunity for each to present oral testimony and make submissions during the hearing.

The landlord confirmed receipt of the Application for Dispute Resolution as well as the documentary evidence presented by the tenant. The tenant submitted evidence of this in the form of registered mail tracking numbers to the landlord, dated September 25, 2019. I have confirmed the dates received as per Rules of Procedure 3.13. The landlord did not submit documentary evidence for this hearing.

Issue(s) to be Decided

Are the tenants entitled to an Order granting a refund of double the amount of the security deposit and pet damage deposit pursuant to section 38(1)(c) of the *Act*?

Are the tenants entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all evidence and oral submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The tenant testified that:

- the tenancy began in March 2016 and ended on July 30, 2019;
- rent in the amount of \$975.00 was due on the first day of each month;
- the combined security and pet damage deposit amount was \$587.50;
- at the end of tenancy condition inspection on July 30, 2019, with both the tenant and the landlord present, the landlord stated that she was aware of the 15-day time limit to return the security deposit amount;
- the landlord returned the security deposit to him via e-transfer on August 18, 2019;
- there was no agreement that authorized the landlord to retain all or part of the security deposit;
- he provided the landlord with his forwarding address at the time of the condition inspection -- confirmed by documentary evidence showing "page 3 of 4" of the Condition Inspection Report completed on July 30, 2019;
- he did not accept the e-transfer on August 18, 2019.

The landlord acknowledged and confirmed the above points in the hearing. The landlord testified that the return of the security deposit was late at the time of the e-transfer on August 18, 2019. This was due to unforeseen circumstances, and the landlord had no intention of withholding the security deposit and pet damage deposit.

Analysis

The *Act* section 38(1) states that within 15 days after the later of the date the tenancy ends, or the date the landlord receives the tenant's forwarding address in writing, the landlord must repay any security or pet damage deposit to the tenant or make an Application for Dispute Resolution for a claim against any deposit.

Further, section 38(6) of the *Act* provides that if a landlord does not comply with subsection (1), a landlord must pay the tenant double the amount of the security and pet damage deposit.

I find the tenant provided the forwarding address to the landlord on July 30, 2019. The landlord did not apply for dispute resolution within 15 days of receiving this forwarding address. I find there was no agreement that the landlord could retain any amount of the security deposit or pet damage deposit.

Despite the unfortunate circumstances that prevented the landlord from repaying the amount on time, I find the landlord's actions constitute a breach of section 38 of the *Act*. The landlord must pay the tenants double the amount of the security and pet damage deposit, as per section 38(6) of the *Act*.

The *Act* section 72 grants me the authority to order the repayment of a fee for the Application. As the tenants were successful in their claim I find they are entitled to recover the filing fee from the landlord.

Conclusion

I order the landlord to pay the tenants the amount of \$1,275.00 which includes \$1,175.00 for double the amount of the security and pet deposits and the \$100.00 filing fee. I grant the tenants a monetary order for this amount. This monetary order may be filed in the Provincial Court (Small Claims) 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: January 23, 2020

Residential Tenancy Branch