



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-DR, FFT

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the tenants for a Monetary Order for the return of double the security deposit and the pet damage deposit (the deposits).

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 7, 2020, the tenants sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenants provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the landlord is deemed to have been served with the Direct Request Proceeding documents on April 12, 2020, the fifth day after their registered mailing.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation for double the return of a security deposit and a pet damage deposit pursuant to sections 38 and 67 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 written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord on October 24, 2018, indicating a monthly rent of \$2,020.00, a security deposit of \$1,010.00, and a pet damage deposit of \$1,010.00, for a tenancy commencing on November 1, 2018;

- A copy of a Mutual Agreement to End a Tenancy which was signed by the landlord and one of the tenants on January 29, 2020, indicating the tenancy would end as of February 29, 2020;
- A copy of a letter from the tenants to the landlord providing the forwarding address;
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the forwarding address was sent to the landlord by registered mail on February 27, 2020;
- A copy of a Canada Post receipt containing the Tracking Number to confirm the forwarding address was in fact sent to the landlord on February 19, 2020;
- A copy of two Interac e-Transfers showing repayments made by the landlord in the amount of \$1,382.42 on March 15, 2020 and \$50.00 on March 19, 2020; and
- A copy of a Tenant's Monetary Order Worksheet for an Expedited Return of Security Deposit and/or Pet Damage Deposit (the Monetary Order Worksheet). showing the amount of deposits paid by the tenants and the partial amounts reimbursed by the landlord.

Analysis

I have reviewed all documentary evidence and I find that the tenants paid a security deposit in the amount of \$1,010.00 and a pet damage deposit in the amount of \$1,010.00, as per the tenancy agreement.

I accept the following declarations made by the tenants on the Monetary Order Worksheet:

- The tenants have not provided consent for the landlord to keep all or part of the deposits;
- There are no outstanding Monetary Orders against the tenants for this tenancy; and
- The tenants have not extinguished their right to the deposits in accordance with sections 24(1) and 36(1) of the *Act*.

Section 38(1) of the *Act* states that the landlord has fifteen days from the end of tenancy and the date they received the forwarding address to either return the deposit(s) in full or make an application for dispute resolution claiming against the deposit(s).

Section 38(6) of the *Act* states that if the landlord does not return the deposits or file a claim against them within the fifteen days, the landlord must pay the tenant double the amount of the deposit(s).

In accordance with sections 88 and 90 of the *Act*, I find that the landlord was deemed served with the forwarding address on February 24, 2020, five days after its registered mailing.

I find that the tenancy ended on February 29, 2020, the date indicated on the Mutual Agreement to End a Tenancy.

I find that the fifteenth day for the landlord to have either returned the deposits or filed for dispute resolution was March 15, 2020. I further find that the landlord returned the pet damage deposit in full on March 15, 2020, in accordance with the Interac e-Transfer and the Monetary Order Worksheet.

As I find the landlord has fulfilled their obligations under section 38(1) of the *Act* relating to the return of the pet damage deposit, I find the tenants are not entitled to the doubling provision of the pet damage deposit.

Therefore, the tenants' application for a Monetary Order for the doubled pet damage deposit is dismissed without leave to reapply.

However, I accept the evidence before me that the landlord has failed to return the full security deposit to the tenants and has not filed an Application for Dispute Resolution requesting to retain all or a portion of the security deposit by March 15, 2020.

Based on the foregoing, I find that the landlord must pay the tenants double the amount of the security deposit, less the portion already returned, in accordance sections 38(6) of the *Act* and calculated as follows:

$$\begin{array}{l} \$1,010.00 \text{ security deposit} \times 2 \\ = \$2,020.00 \text{ doubled security deposit} \\ - \$372.42 \text{ paid by e-Transfer on March 15, 2020} \\ - \$50.00 \text{ paid by e-Transfer on March 19, 2020} \\ = \mathbf{\$1,597.58} \text{ owed to the tenants} \end{array}$$

Therefore, I find that the tenants are entitled to a monetary award in the amount of \$1,597.58, as of the date of this application, April 2, 2020.

As the tenants were successful in this application, I find that the tenants are entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the tenants a Monetary Order in the amount of \$1,697.58 for the return of double the security deposit and for the recovery of the filing fee for this application. The tenants are provided with this Order in the above terms and the landlord must be served with **this Order** as soon as possible. Should the landlord 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.

I dismiss the tenants' application for a Monetary Order for the doubled pet damage deposit 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: April 15, 2020

Residential Tenancy Branch