



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 tenant for a Monetary Order for the return of the security deposit and the pet damage deposit (the deposits).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 17, 2020, the tenant sent Landlord K.S. the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that Landlord K.S. is deemed to have been served with the Direct Request Proceeding documents on April 22, 2020, the fifth day after their registered mailing.

The tenant submitted a second signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 17, 2020, the tenant sent Landlord D.M. the Notice of Direct Request Proceeding by e-mail. The tenant provided a copy of the outgoing e-mail containing attachments of the supporting documents to confirm this service.

The Residential Tenancy Branch's Director's Order on e-mail service dated March 30, 2020 provides that a document required to be sent in accordance with sections 88 and 89 of the *Act* may be sent by e-mail if the sender and recipient e-mail addresses have been routinely used for tenancy matters.

The tenant submitted a copy of five e-mails exchanged between November 27, 2017 and December 7, 2019, showing that Landlord D.M. and the tenant regularly used e-mail to communicate about tenancy issues.

Based on the written submissions of the tenant and in accordance with the Director's Order, I find that Landlord D.M. is deemed to have been served with the Direct Request Proceeding documents on April 20, 2020, the third day after their e-mailing.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation for the return of a security deposit and a pet damage deposit pursuant to sections 38 and 67 of the *Act*?

Is the tenant 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 tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlords and the tenant on October 1, 2017, indicating a monthly rent of \$1,500.00, a security deposit of \$750.00, and a pet damage deposit of \$750.00, for a tenancy commencing on October 1, 2017;
- A copy of a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit (the forwarding address) dated March 27, 2020;
- A copy of a witnessed 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 placed in the landlords' mailbox at 3:15 pm on March 27, 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). indicating that the tenancy ended on January 3, 2020. The Monetary Order Worksheet states that, of the \$1,500.00 in deposits paid by the tenant, the tenant authorized the landlords to retain \$102.00 and the landlords reimbursed \$398.00.

Analysis

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).

I have reviewed all documentary evidence and I find that the tenant paid a security deposit in the amount of \$750.00 and a pet damage deposit in the amount of \$750.00, as per the tenancy agreement.

I accept the tenant's statement that the tenancy ended on January 3, 2020, the date indicated on the Monetary Order Worksheet.

In accordance with sections 88 and 90 of the *Act*, I find that the landlords were deemed served with the forwarding address on March 30, 2020, three days after it was placed in the mailbox.

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

- The tenant has not provided consent for the landlords to keep more than \$102.00 of the deposits;
- There are no outstanding Monetary Orders against the tenant for this tenancy; and
- The tenant has not extinguished their right to the deposits in accordance with sections 24(1) and 36(1) of the *Act*.

I accept the evidence before me that the landlords have failed to return the full deposits to the tenant and have not filed an Application for Dispute Resolution requesting to retain the deposits by April 15, 2020, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that the landlords must pay the tenant double the amount of the balance of the security deposit and the pet damage deposit in accordance sections 38(6) of the *Act*.

Therefore, I find that the tenant is entitled to a monetary award in the amount of \$2,000.00, double the amount claimed by the tenant for the balance of the security deposit and the pet damage deposit, as of the date of this application, April 21, 2020.

As the tenant was successful in this application, I find that the tenant is 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 tenant a Monetary Order in the amount of \$2,100.00 for the return of double the balance of the security deposit and the pet damage deposit and for the recovery of the filing fee for this application. The tenant is provided with this Order in the above terms and the landlord(s) must be served with **this Order** as soon as possible. Should the landlord(s) 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.

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 23, 2020