



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

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

- authorization to obtain a return of the tenants' security and pet damage deposits ("deposits"), pursuant to section 38.

The "male tenant" did not attend this hearing, which lasted approximately 14 minutes. The two landlords, "male landlord" and female landlord ("landlord"), and the female tenant ("tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord confirmed that she had permission to represent the male landlord at this hearing (collectively "landlords"). The tenant confirmed that she had permission to represent the male tenant at this hearing ("tenants").

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package and the tenant confirmed receipt of the landlords' evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that both landlords were duly served with the tenants' application and both tenants were duly served with the landlords' evidence.

Both parties confirmed that they had no objections and they were ready to proceed with the hearing.

Issue to be Decided

Are the tenants entitled to a return of their deposits?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the tenants' claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on September 1, 2013 and ended on March 15, 2019. Monthly rent in the amount of \$1,675.00 was payable on the first day of each month. A security deposit of \$750.00 and a pet damage deposit of \$750.00 were paid by the tenants and the landlords continue to retain both deposits. A written tenancy agreement was signed by both parties. A move-in condition inspection report was completed for this tenancy. No move-out condition inspection report was completed for this tenancy. The landlords received a written forwarding address from the tenants, by way of a letter sent by regular mail on July 24, 2019. The landlords did not file an application for dispute resolution to retain any amount from the tenants' deposits. The landlords did not have written permission to keep any amount from the tenants' deposits.

The tenants seek a return of their deposits totalling \$1,500.00. The landlords dispute the tenants' application, claiming that the tenants caused damages to the rental unit.

Analysis

Section 38 of the *Act* requires the landlords to either return the tenants' deposits or file for dispute resolution for authorization to retain the deposits, within 15 days after the later of the end of a tenancy and the tenants' provision of a forwarding address in writing. If that does not occur, the landlords are required to pay a monetary award, pursuant to section 38(6)(b) of the *Act*, equivalent to double the value of the deposits. However, this provision does not apply if the landlords have obtained the tenants' written authorization to retain all or a portion of the deposits to offset damages or losses arising out of the tenancy (section 38(4)(a)) or an amount that the Director has previously ordered the tenants to pay to the landlords, which remains unpaid at the end of the tenancy (section 38(3)(b)).

On a balance of probabilities and for the reasons stated below, I make the following findings based on the testimony and evidence of both parties. The tenancy ended on March 15, 2019. The tenants provided a written forwarding address by way of a letter sent by regular mail on July 24, 2019, which was received by the landlords. The tenants did not give the landlords written permission to retain any amount from the

deposits. The landlords did not return the deposits or make an application for dispute resolution to claim against the deposits within 15 days of the later forwarding address date of July 24, 2019.

In accordance with section 38(6)(b) of the *Act* and Residential Tenancy Policy Guideline 17, I find that the tenants are entitled to receive double the value of their deposits of \$1,500.00, totalling \$3,000.00. There is no interest payable on the deposits during the period of this tenancy. Although the tenants did not apply for double the value of their deposits, they are not required to do so, as I must consider this claim. I find that they did not waive their right to double the deposits at the hearing.

Conclusion

I issue a monetary Order in the tenants' favour in the amount of \$3,000.00 against the landlord(s). 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: May 21, 2020

Residential Tenancy Branch