Dispute Resolution Services

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 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 May 15, 2020, the tenants sent the landlord the Notice of Direct Request Proceeding by e-mail. The tenants provided a copy two outgoing e-mails 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 tenants submitted a copy of two e-mails exchanged on April 14, 2020, showing that the landlord and tenants used e-mail to communicate about tenancy issues.

Based on the written submissions of the tenants and in accordance with the Director's Order, I find that the landlord is deemed to have been served with the Direct Request Proceeding documents on May 18, 2020, the third day after their e-mailing.

Issue(s) to be Decided

Are the tenants 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*?

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 and the tenants, indicating a monthly rent of $4,500.00, a security deposit of $2,250.00, and a pet damage deposit of $2,250.00, for a tenancy commencing on February 1, 2020;

- A copy of an e-mail from the tenants to the landlord dated April 14, 2020, providing the forwarding address and requesting the return of the deposits and a copy of a reply e-mail from the landlord also dated April 14, 2020;

- 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 e-mail at 1:05 pm on April 14, 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, an authorized deduction of $700.00, and stating the tenancy ended on April 4, 2020.

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 deposit(s) 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 tenants paid a security deposit in the amount of $2,250.00 and a pet damage deposit in the amount of $2,250.00, as per the tenancy agreement.

I accept the tenants' statement in the Monetary Order Worksheet that the tenancy ended on April 4, 2020.

In accordance with the Director's Order, I find that the landlord was served with the forwarding address on April 14, 2020, the day they replied to the tenants' e-mail.

I accept the following declarations made by the tenant on the Monetary Order Worksheet:
- The tenants have only provided consent for the landlord to keep $700.00 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*.

I accept the evidence before me that the landlord has failed to return the balance of the deposits to the tenants and has not filed an Application for Dispute Resolution requesting to retain the deposits by April 29, 2020, within the fifteen days granted under section 38(1) of the *Act*.

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

Therefore, I find that the tenants are entitled to a monetary award in the amount of $7,600.00, double the amount claimed by the tenants for the security deposit and the pet damage deposit, as of the date of this application, May 8, 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 $7,700.00 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 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.

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 19, 2020

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Residential Tenancy Branch