



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

On March 5, 2020, The Tenant applied for Dispute Resolution under the *Residential Tenancy Act* ("the Act") seeking a monetary order for money owed or compensation for damage or loss under the *Act*, and for the return of a security deposit.

The matter was set as a teleconference hearing. Both parties appeared at the hearing. The hearing process was explained, and the participants were asked if they had any questions. All participants in the hearing provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Landlord testified that he did not serve the Tenant with a copy of his documentary evidence. Since the Tenant was not provided an opportunity to review, consider or respond to the Landlord's documentary evidence, the Landlord's evidence is not accepted and will not be considered in this hearing.

Issues to be Decided

- Is the Tenant entitled to the return of double the security deposit?
- Is the Tenant entitled to money owed or compensation for damage or loss under the Act, Regulation or tenancy agreement?

Background and Evidence

The Landlord and Tenant testified that the tenancy began in June 2017, as a 1-year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$1,500.00 was due to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$750.00 and a pet damage deposit of \$500.00.

The Landlord and Tenant testified that the tenancy ended when the Tenant vacated the rental unit on or around January 10, 2020.

Security Deposit

The Tenant is seeking the return of double the \$750.00 security deposit. The Tenant testified that the Landlord did not return any amount of the security deposit to her at the end of the tenancy.

The Tenant testified that there was no written agreement reached at the end of the tenancy authorising the Landlord to keep the security deposit.

The Tenant testified that she sent her forwarding address to the Landlord using email and by letter sent in January and February 2020. The Tenant testified that the Landlord did not respond to the emails or letter.

In response, the Landlord testified that he only received the Tenant's forwarding address in March 2020 upon receiving the Notice of Dispute Resolution Proceeding for this hearing.

Compensation for Emergency Relocation

The Tenant is seeking compensation from the Landlord for costs associated with having to relocate on an urgent basis. The Tenant testified that she is seeking \$400.00 for emergency housing costs; \$200.00 for cat fostering; \$98.00 for storage costs. The Tenant was unable to explain the breakdown of the remainder of her \$1,548.00 claim.

The Tenant testified that she returned home on new years eve to find police and ambulance at the residential property. She testified that she assumed the incident involved a domestic dispute with the occupants of the lower rental unit. She testified

that an occupant was assaulted with a pitchfork. The Tenant testified that five days later the police informed her that the suspect in the assault is a small Asian man.

The Tenant testified that she believed that her kids would be in danger and that it was in her best interests to leave the rental unit. The Tenant submitted that she believes she had the right to immediately end the tenancy without proper notice to the Landlord. The Tenant testified that she incurred costs associated with vacating the rental unit and believes the Landlord is responsible to pay her compensation for these costs.

In reply, the Landlord stated that does not know anything about the incident as he was out of town. The Landlord stated that he does not agree that he is responsible to pay any compensation to the Tenant. The Landlord stated that the Tenant informed him on December 27, 2019 that she was looking to move out. He testified that the Tenant failed to pay all the rent owing under the tenancy agreement for January 2020.

Analysis

Section 45 of the Act stipulates that a Tenant may end a tenancy by giving one months' notice in writing.

Section 38 (1) of the Act states that within 15 days after the later of the date the tenancy ends, and the date the Landlord receives the Tenant's forwarding address in writing, the Landlord must repay any security deposit or pet damage deposit to the Tenant with interest calculated in accordance with the regulations or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

With respect to the security deposit, I find that there is insufficient proof from the Tenant to establish that the Landlord ever received her forwarding address prior to when the Landlord received the Notice of Dispute Resolution Proceeding in March 2020.

While the Act provides that the Landlord has 15 days from when the forwarding address is received, I find that it is not reasonable to expect that the Landlord would know to return the deposit or apply against it within 15 days after receiving the Tenant's application and Notice of Dispute Resolution Proceeding.

I find that the Landlord has 15 days from the date he receives this Decision to either return the security deposit to the Tenant or to apply for dispute resolution and request to keep it.

Compensation for Emergency Relocation

The Tenant's claim for compensation is dismissed without leave to reapply. The Tenant submitted that she has the right to immediately end the tenancy in circumstances of violence. The Tenant did not provide a specific section of the Act that permits her to end the tenancy early for this reason.

I note that section 45.1 of the Act permits a Tenant to end a fixed term tenancy in situations of family violence carried out by a family member of a Tenant. I find that section 45.1 of the Act is not relevant to situation explained by the Tenant. Furthermore, section 45.1 does not place an obligation on the Landlord to compensate a tenant who ends a tenancy.

I find that the Tenant was required to end the tenancy in accordance with section 44 and 45 of the Act by giving proper written notice to the Landlord.

I find that the Landlord has not breached the Act and is not responsible to pay compensation to the Tenant for her choice to vacate the rental unit.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant was not successful with her claims, and since the Landlord was not in breach of the Act, I decline an order for the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

Conclusion

The Tenant's application for money owed or compensation for damage or loss; and for the return of a security deposit is not successful.

The Tenant has leave to reapply for the return of the security deposit if the Landlord fails to return it to her or fails to apply for dispute resolution within 15 days of receiving this Decision.

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: July 14, 2020

Residential Tenancy Branch