



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 two signed Proof of Service Tenant's Notice of Direct Request Proceeding forms which declare that on August 1, 2020, the tenants sent each of the respondents the Notice of Direct Request Proceeding by registered mail. The tenants provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the respondents are deemed to have been served with the Direct Request Proceeding documents on August 6, 2020, the fifth day after their registered 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 Landlord A.G. and the tenants on September 1, 2015, indicating a monthly rent of \$2,070.15, for a tenancy commencing on September 1, 2015;
- A copy of a second addendum (and third extension) to residential tenancy agreement which was signed by Landlord A.G. and the tenants on September 1, 2015 and indicates that a security deposit in the amount of \$937.50 and a pet damage deposit in the amount of \$937.50 were paid on June 9, 2007;
- A copy of a letter from the tenants to the landlords dated May 9, 2020, providing the forwarding address and requesting the return of the deposits;
- 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 landlords by registered mail at 11:48 am on May 13, 2020;
- A copy of a Canada Post Customer Receipt containing the Tracking Number to confirm the forwarding address was in fact sent to the landlords on May 11, 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 indicating the tenancy ended on August 31, 2019.

Analysis

Paragraph 12 (1) (b) of the Residential Tenancy Regulation establishes that a tenancy agreement is required to be "signed and dated by both the landlord and the tenant."

I find that Landlord V.S. has not signed the tenancy agreement, which is a requirement of the Direct Request process.

For this reason, I will only proceed with the portion of the tenants' application naming Landlord A.G. as a respondent.

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 \$937.50 and a pet damage deposit in the amount of \$937.50, on June 9, 2007, as per the tenancy agreement and addendum.

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*.

I accept the tenants' statement on the Monetary Order Worksheet that the tenancy ended on August 31, 2019.

In accordance with sections 88 and 90 of the *Act*, I find that Landlord A.G. was deemed served with the forwarding address on May 16, 2020, five days after its registered mailing.

I accept the evidence before me that Landlord A.G. has failed to return the deposits to the tenants and has not filed an Application for Dispute Resolution requesting to retain the deposits by May 31, 2020, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that Landlord A.G. must pay the tenants double the amount of the security deposit and the pet damage deposit in accordance section 38(6) of the *Act*.

Section 38(1)(c) of the *Act* requires a landlord to repay the deposits with interest calculated in accordance with the regulations.

In accordance with the Residential Tenancy Branch deposit interest calculator, I find that Landlord A.G. must pay the tenants interest on the deposits in the amount of \$44.24.

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

Therefore, as of the date of this application, July 30, 2020, I find that the tenants are entitled to a monetary award in the following amount:

Item	Amount
Doubling of unreturned Security Deposit (\$937.50 x 2)	\$1,875.00
Doubling of unreturned Pet Damage Deposit (\$937.50 x 2)	\$1,875.00
Interest payable on deposits since June 9, 2007	\$44.24
Recovery of Filing Fee	\$100.00
Total Monetary Award to Tenants	\$3,894.24

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the tenants a Monetary Order in the amount of \$3,894.24 for the return of double the security deposit and the pet damage deposit, for interest payable on the deposits, and for the recovery of the filing fee for this application. The tenants are provided with this Order in the above terms and Landlord A.G. must be served with **this Order** as soon as possible. Should Landlord A.G. 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 portion of the tenants' application naming Landlord V.S. as a respondent 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: August 13, 2020

Residential Tenancy Branch