



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-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 (the deposit).

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 4, 2020, the tenants sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenants provided a copy of the Canada Post receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the landlord is deemed to have been served with the Direct Request Proceeding documents on September 9, 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 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 Tenant E.Y.C. on April 20, 2018, indicating a monthly rent of \$2,700.00 and a security deposit of \$1,350.00, for a tenancy commencing on May 1, 2018;

- A copy of a Condition Inspection Report which was signed by the landlord and Tenant E.Y.C., indicating the tenants provided a forwarding address at the time of the move-out inspection;
- 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 provided to the landlord on the Condition Inspection Report at 7:00 pm on April 29, 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 deposit paid by the tenants and indicating the tenancy ended on April 30, 2020.

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 Tenant J.W.P. and Tenant J.I.P. have 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 Tenant E.Y.C. as an applicant.

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 Tenant E.Y.C. paid a security deposit in the amount of \$1,350.00, as per the tenancy agreement.

I accept the following declarations made by Tenant E.Y.C. on the Monetary Order Worksheet:

- Tenant E.Y.C. has not provided consent for the landlord to keep all or part of the deposit;
- There are no outstanding Monetary Orders against Tenant E.Y.C. for this tenancy; and
- Tenant E.Y.C. has not extinguished their right to the deposit in accordance with sections 24(1) and 36(1) of the *Act*.

I accept Tenant E.Y.C.'s statement on the Monetary Order Worksheet that the tenancy ended on April 30, 2020.

In accordance with section 88 of the *Act*, I find that the landlord was duly served with the forwarding address on April 29, 2020.

I accept the evidence before me that the landlord has failed to return the deposit to Tenant E.Y.C. and has not filed an Application for Dispute Resolution requesting to retain the deposit by May 15, 2020, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that the landlord must pay Tenant E.Y.C. double the amount of the security deposit in accordance section 38(6) of the *Act*.

Therefore, I find that Tenant E.Y.C. is entitled to a monetary award in the amount of \$2,700.00, the amount claimed by Tenant E.Y.C. for double the security deposit, as of the date of this application, August 30, 2020.

As Tenant E.Y.C. was successful in this application, I find that Tenant E.Y.C. 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 Tenant E.Y.C. a Monetary Order in the amount of \$2,800.00 for the return of double the security deposit and for the recovery of the filing fee for this application. Tenant E.Y.C. is 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: September 10, 2020

Residential Tenancy Branch