



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of the security deposit or pet damage deposit, and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and each gave affirmed testimony. The tenant also called 1 witness who gave affirmed testimony. The parties were given the opportunity to question each other and the witness, and to give submissions.

No issues with respect to exchange of evidence were raised by either party, and all evidence provided has been reviewed and is considered in this Decision.

Issues to be Decided

Has the tenant established a monetary claim as against the landlord for return of double the amount of the security deposit?

Background and Evidence

The tenant testified that this month-to-month tenancy began on March 1, 2020 and ended on April 30, 2020. There is no written tenancy agreement, however rent in the amount of \$1,000.00 was payable within the first 10 days of each month, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$500.00, and no pet damage deposit was collected. The rental unit is a basement suite, and the landlord resided in the upper level of the rental home during this tenancy.

The tenant further testified that the tenant gave notice to vacate the rental unit in writing, and a copy has been provided for this hearing. It is dated April 19, 2020 but contains no effective date of vacancy.

During the tenancy the parties had been to Arbitration before the Residential Tenancy Branch. The tenant had made an application for monetary compensation due to the landlord's behaviour. The landlord denied that the tenant had provided the evidentiary material to him, and the Arbitrator denied the tenant's application.

No move-in condition inspection report was completed at the beginning of the tenancy, and at the end of the tenancy the landlord said that due to COVID-19 he would inspect. The landlord notified the tenant that there were no issues after the inspection was completed.

The tenant provided the landlord with a forwarding address in an email on May 11, 2020, and a copy has been provided as evidence for this hearing. The landlord responded by email on May 14, 2020 stating that the forwarding address had been received.

The tenant hadn't paid all of the rent for April and authorized the landlord to keep \$200.00 of the security deposit, and the tenant paid \$800.00 for the rent. The landlord sent the tenant an email saying that the landlord had mailed a cheque, and then an email asking if the tenant had received it. The tenant had not, and the landlord told the tenant that Canada Post had advised that mail volumes are as busy as at Christmas. The landlord offered the tenant 3 options, such as to re-send the cheque by mail, or meet at a police station or some place where the exchange could be witnessed, or the tenant could pick up the cheque. The landlord sent the tenant an e-transfer for \$300.00 but the tenant did not receive it until June 16, 2020.

The tenant has provided a Monetary Order Worksheet setting out the following claims, which total \$630.65:

- \$14.50 for "print out receipt for Hearing Package";
- \$500.00 for double the deposit;
- \$16.15 for mailing the hearing package; and
- \$100.00 for the filing fee.

The tenant's witness is the tenant's boyfriend and testified that the landlord said that he mailed a cheque on May 30, 2020 but the tenant didn't get the cheque.

The landlord testified that the tenant gave notice to vacate saying she was forced to leave, but in fact she tried to stay in the rental unit. When she was moving out, the

landlord told the tenant she had to be out by 1:00 p.m., but the tenant occupied the unit until 5:00, which affected a new tenancy.

Due to COVID-19 the landlord told the tenant that he would do the inspection himself and advised the tenant that all was fine. The tenant owed \$500.00 for rent at that point for the month of April. The landlord asked if the tenant wanted to apply the security deposit toward the unpaid rent, but she declined and told the landlord that he should be patient because the rental supplement was still being processed. The landlord said he would work with the tenant, but the supplement would only be \$300.00. The tenant didn't respond. The landlord received the \$300.00 supplement, and on May 8, 2020 the tenant authorized the landlord to keep \$200.00 of the security deposit for the balance owed for rent.

The landlord asked the tenant for a forwarding address, but the tenant insisted on an e-transfer and the tenant didn't provide a forwarding address until May 11, which was received by the landlord on May 14, 2020 by email.

The landlord sent a cheque to the tenant in the amount of \$300.00 by regular mail on May 30, 2020. About a week later, the landlord asked if the tenant had received, and the tenant responded that he had not received it. The landlord explained to the tenant about mail taking longer, and asked that the tenant be patient; the landlord cannot control the mail. If the cheque didn't arrive, the landlord said he'd give the tenant another cheque, or meet her somewhere with a witness, or the tenant could pick up a cheque from the landlord, but the landlord received no response. The tenant had not cashed the cheque and the landlord sent an e-transfer for \$300.00 on June 16, 2020 and told the tenant to discard the cheque.

The landlord also feels this dispute is retribution for the tenant losing the previous application for dispute resolution, and has provided a type-written summary of events.

The landlord also testified that if awarded, the calculation is incorrect. Any doubling of the deposit should be only on the remaining \$300.00 because the tenant authorized the \$200.00 deduction in writing. The tenant also claims the cost of mailing documents to the landlord, which is not permitted under the *Residential Tenancy Act*. The delay was only to get an answer from the tenant about which option she chose to receive the money. The landlord had 15 days, from May 15, 2020, because the landlord received the tenant's forwarding address on May 14, 2020.

The rental unit was re-rented for May 1, 2020, and the landlord has not served with tenant with an Application for Dispute Resolution claiming any part of the security deposit. The Residential Tenancy Branch responded to the landlord about what the deadline was for returning the balance of the deposit, who said that the landlord had until the 30th of the

month. The landlord had financial problems prior to that and new tenants couldn't move in on the 1st because the tenant didn't leave on time.

Analysis

The *Residential Tenancy Act* requires a landlord to return a security deposit to a tenant in full or file and serve the tenant with an Application for Dispute Resolution claiming against the deposit within 15 days of the later of the date the tenancy ends or the date the landlord receives a tenant's forwarding address in writing.

I have reviewed all of the evidentiary material of the parties, including the summary of events provided by the landlord.

The parties agree that the tenant authorized the landlord to keep \$200.00 of the \$500.00 security deposit. The parties also agree that the landlord inspected the rental unit after the tenant moved out and makes no claim for damage or loss. The tenant provided the landlord with a forwarding address in writing on May 11, 2020 by email, and the landlord responded on May 14, 2020. I find that the landlord received the tenant's forwarding address in writing on May 14, 2020, pursuant to the Director's Order dated March 30, 2020, which expired on June 23, 2020. The landlord returned the balance of \$300.00 by cheque to the tenant by mail on May 30, 2020, and the parties agree that the tenant has not cashed the cheque.

Because the landlord received the tenant's forwarding address in writing on May 14, 2020, the landlord had an obligation to return the balance of \$300.00 to the tenant by May 29, 2020. Therefore, I find that the tenant is entitled to double the amount, or \$600.00. The landlord sent \$300.00 by e-transfer to the tenant on June 16, 2020, and the landlord must repay another \$300.00, and I so order.

The *Act* does not provide for recovery of the cost of mailing documents or preparing for a hearing, however since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the tenant as against the landlord in the amount of \$400.00. I further order that the tenant NOT cash the \$300.00 cheque from the landlord if it's received.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$400.00.

This order is final and binding and may be enforced.

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: October 08, 2020

A handwritten signature in black ink, appearing to read 'V. Hedrich', is written over a horizontal line.

V. Hedrich, Arbitrator
Residential Tenancy Branch