



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant and counsel seeking a monetary order for return of the security deposit.

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

No issues with respect to service or delivery of documents or evidence were raised, 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 all or double the amount of the security deposit?

Background and Evidence

The tenant testified that this month-to-month tenancy began on October 1, 2015 and ended on November 29, 2019. A written tenancy agreement was prepared, but a copy has not been provided for this hearing; the tenant misplaced her copy. Rent in the amount of \$625.00 was payable on the 1st day of each month, which was illegally increased about a year after moving in, then again legally in October, 2017 to \$725.00 per month. The rental unit is a basement suite, and the landlord resided in the upper level of the home. No move-in or move-out condition inspection reports were completed.

The tenant's Legal Counsel advised that the tenant's testimony was not correct, and the tenant was suffering from anxiety during questioning. The tenant then testified that rent

was originally \$650.00 per month, increased to \$675.00 about a year later, and then in 2017 to \$725.00 per month. The tenant paid a security deposit to the landlord in the amount of \$325.00 at the beginning of the tenancy.

The tenant provided a forwarding address in writing to the landlord on November 30, 2019 by handing the landlord a note, and a copy has been provided as evidence for this hearing.

The tenant has also provided a copy of a Notice of Rent Increase dated July 15, 2017 which states that it is the first increase since rent was established on October 1, 2015, and the current rent of \$675.00 is increased by \$50.00 per month and the new rent will be \$725.00 per month commencing on October 1, 2017.

The tenant seeks double recovery of the security deposit, or \$650.00.

The landlord testified that the tenant paid a security deposit in the amount of \$200.00 at the beginning of the tenancy in cash, and no receipt was given. The landlord does not dispute that the tenant's forwarding address in writing was received by the landlord on November 30, 2019.

The landlord's witness is the landlord's 17 year old son, and testified that he was present when the tenant and another person introduced as the tenant's mother gave the landlord \$200.00 in cash for the security deposit. The witness was about 13 or almost 14 years old at the time. The witness testified that the lower amount of the security deposit was offered to the tenant because the landlord was being nice.

Analysis

Where a party makes a monetary claim, the onus is on the claiming party to establish the amount. In this case, the parties do not agree on the amount of security deposit paid to the landlord. The landlord insists that it was \$200.00 and the tenant's testimony is \$325.00. There is no evidence to substantiate any of the amounts, other than a Notice of Rent Increase dated July 15, 2017. That in itself is not evidence of the amount of security deposit paid to the landlord.

The landlord testified that she received \$200.00 for a security deposit and received the tenant's forwarding address in writing on November 30, 2019 but did not return any portion of the security deposit to the tenant.

The *Residential Tenancy Act* specifies that if a landlord fails to return a security deposit in full to a tenant, or make an Application for Dispute Resolution claiming against the security deposit, within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, the landlord must re-pay double the

amount to the tenant. Given that the landlord does not deny receiving a security deposit or a forwarding address of the tenant, I find that the landlord received \$200.00 at the commencement of the tenancy. I also find that the tenancy ended on November 29, 2019 and the landlord received the tenant's forwarding address on November 30, 2019. The landlord did not apply for dispute resolution claiming against the security deposit, and did not return any of it to the tenant, and I find that the tenant is entitled to double the amount and the tenant has established a claim of \$400.00.

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: November 09, 2020

Residential Tenancy Branch