



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing was held, via teleconference, on November 16, 2020. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- An order that the Landlord return all or part of the security deposit or pet damage deposit

The Tenant attended the hearing. However, the Landlord did not. The Tenant testified that she sent the Landlord her application package by registered mail on July 31, 2020. Proof of mailing was provided into evidence. Pursuant to section 89 and 90 of the Act, I find the Landlord is deemed to have received this package on August 5, 2020, the fifth day after its registered mailing.

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

Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

Background and Evidence

The Tenant stated that month rent was \$600.00 and was due on the first of the month. The Tenant stated she paid a security deposit of \$300.00 and that the Landlord still holds this amount. The Tenant stated that she signed a tenancy agreement (provided into evidence), and moved into the rental unit on May 1, 2020. The Tenant stated that she was unhappy with the rental, so she moved out at the end of May 2020, after confirming it was okay with the Landlord. The Tenant stated that she moved out on May 31, 2020, after living there for only one month.

The Tenant provided proof of registered mailing to show she sent her forwarding address in writing to the Landlord (at the address listed as the address for service for the Landlord on the Tenancy Agreement). The Tenant mailed this letter to the Landlord on July 3, 2020.

The Tenant stated that she never received any money back and now wants double the security deposit.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

The Tenant moved out of the rental unit on May 31, 2020, which I find reflects the end of the tenancy. Pursuant to section 88 and 90 of the *Act*, I find the Landlord is deemed to have received the Tenant's forwarding address in writing on July 8, 2020, five days after it was sent by registered mail.

I note the Tenant did not authorize any deductions from the security deposit.

Pursuant to section 38(1) of the *Act*, the Landlord had 15 days from receipt of the forwarding address in writing (until July 23, 2020) to either repay the security deposit (in full) to the Tenant or make a claim against it by filing an application for dispute

resolution. The Landlord did neither and I find the Landlord breached section 38(1) of the Act.

Accordingly, as per section 38(6)(b) of the Act, I find the Tenant is entitled to recover double the amount of the security deposit (\$300.00 x 2). Further, 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 successful in this hearing, I also order the Landlord to repay the \$100.00 fee the Tenant paid to make the application for dispute resolution.

In summary, I issued the Tenant a monetary order for \$700.00 based on the Landlord's failure to deal with the security deposit in accordance with section 38 of the *Act*.

Conclusion

I grant the Tenant a monetary order in the amount of **\$700.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be 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: November 16, 2020

Residential Tenancy Branch