



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 as a result of the Tenant's Application for Dispute Resolution. A participatory hearing was held, via teleconference, on March 23, 2021. 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 and the Landlord attended the hearing. All parties provided testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties confirmed receipt of each other's evidence. No issues were raised with respect to service of documents.

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 parties confirmed the monthly rent was set at \$800.00 per month, due on the first of the month. The Tenant paid a security deposit of \$400.00 and a pet deposit of \$400.00. The Landlord returned \$625.00 of these deposits, around November 10, 2020. The Tenant confirmed this occurred.

Both parties agree that the Tenant moved out on October 31, 2020. Although a move-in inspection was completed, a move-out inspection was not. The Landlord had an order of possession for the end of October 2020, but did not schedule a move-out inspection leading up to that date.

The Tenant stated that she left her forwarding address on top of the dishwasher of the rental unit. The Landlord acknowledged receiving this letter, containing the Tenant's forwarding address on October 31, 2020, the same day she moved out.

The Landlord stated he was unaware of the rules about deposits, and kept \$175.00 because the Tenant took one of his dressers, and failed to pay the utilities. The Landlord stated he never filed an application against the deposits.

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.

In this case, both parties confirmed that the Tenants moved out of the rental unit on October 31, 2020, which I find reflects the end of the tenancy. The Landlord confirmed that he got the Tenant's forwarding address on October 31, 2020. Furthermore, the Tenant did not authorize any deductions from the security deposit. Therefore, the Landlord had until November 15, 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.

Both parties agree that the Landlord returned \$625.00 of the \$800.00 overall deposit held. However, I note the Tenants did not agree or authorize the Landlord to retain any amount. I find no evidence that the Landlord had any right to retain any money from the deposits held. I find the Landlord breached section 38(1) of the Act.

Accordingly, as per section 38(6)(b) of the Act, I find the Tenants are entitled to recover double the amount of the security and pet deposit (\$800.00 x 2), previously held by the Landlord, less the amount the Landlord has already given back. 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 make the monetary order as follows:

Item	Amount
Return of Double security and pet deposit (\$800.00 x 2)	\$1,600.00
Filing Fee	\$100.00
Less: Returned Portion of Security Deposit	(\$625.00)
Total Monetary Order	\$1,075.00

Accordingly, pursuant to section 67 of the Act, I grant the above monetary order 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 **\$1,075.00**. 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: March 23, 2021

Residential Tenancy Branch