



Dispute Resolution Services

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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. The participatory hearing was held, by teleconference, on May 28, 2021. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for the return of double the security deposit

Both parties were present at the hearing and provided testimony. Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. The Landlord confirmed receipt of the Tenant's documentary evidence, and application. The Tenant confirmed receipt of the Landlord's evidence. I find both parties sufficiently served each other with their respective documentary packages.

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

Issues 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?
2. Is the Tenant entitled to an order granting recovery of the filing fee?

Background and Evidence

Both parties agree that monthly rent was set at \$450.00 per month, and was due on the first of the month. The Tenant paid a security deposit of \$225.00 at the start of the tenancy. The Tenant moved in around July 2020, and moved out at the end of December 2020.

More specifically, the Landlord stated he received the Tenant's written notice to end tenancy at the end of November 2020, taking effect at the end of December 2020. The Tenant and an agent for the Landlord met at the rental unit on December 18, 2020, to do a walk through move-out inspection. The Landlord stated they were unhappy with the cleaning and requested that the Tenant clean up prior to formally vacating at the end of the month.

The Tenant feels he cleaned sufficiently, and did not return to the rental unit following the move-out inspection on December 18, 2020. The Tenant stated that he never came to an agreement with the Landlord about any deductions from the deposit. The Landlord acknowledged receiving the Tenant's forwarding address in writing on the day the initial move-out inspection was completed on December 18, 2020.

The Landlord stated that since the Tenant never returned to clean up, they deducted \$40.00 from the deposit, and returned \$185.00. The Tenant acknowledged getting a cheque in the mail for \$185.00 but he took issue with the fact it was not the full amount of his 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.

In this case, the evidence confirmed the Landlord was in receipt of the Tenant's forwarding address in writing on December 18, 2020. Since rent was paid until the end of December 2020, and the Tenant did not have evidence to support that he clearly

informed the Landlord he vacated before the end of the month, I find the tenancy formally ended on December 31, 2020, which is when his notice took effect.

Therefore, the Landlord had until January 15, 2021, 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 only returned part of the deposit after deducting what he felt was reasonable for cleaning costs. Accordingly, I find the Tenant is entitled to recover double the amount of the security deposit held by the Landlord ($2 \times \$225.00 = \450.00) less the amount already returned (\$185.00) pursuant to section 38(6) of the *Act*.

Pursuant to section 72 of the *Act*, and given the Tenant was successful in their application, I award him recovery of the filing fee they paid for this application.

Accordingly, pursuant to section 67 of the *Act*, I grant the Tenant a monetary order in the amount of \$365.00, which is due to the Landlord's failure to deal with the security deposit in accordance with section 38 of the *Act*, and \$100.00 in recovery of the filing fee.

Conclusion

I grant the Tenant a monetary order in the amount of \$365.00. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenants 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: May 28, 2021

Residential Tenancy Branch