



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-DR, FFT

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the tenant to obtain monetary compensation for the return of double the security deposit and the pet damage deposit (the deposits) and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenant on August 12, 2021.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 3, 2021, the tenant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenant provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing.

Based on the written submissions of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on September 3, 2021 and are deemed to have been received by the landlord on September 8, 2021, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation for the return of a security deposit and a pet damage deposit pursuant to sections 38 and 67 of the *Act*?

Is the tenant entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the tenant on July 16, 2020, indicating a monthly rent of \$1,925.00, a security deposit of \$962.50, and a pet damage deposit of \$962.50, for a tenancy commencing on August 1, 2020
- A copy of a notice to vacate which was signed by the tenant on June 27, 2021, indicating the tenancy would end as of July 31, 2021 and providing the forwarding address for the return of the deposits
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form which indicates that the forwarding address was provided to the landlord on the Condition Inspection Report at 4:30 pm on July 28, 2021
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposits paid by the tenant and indicating the tenancy ended on July 31, 2021

Analysis

Section 38(1) of the *Act* states that within fifteen days of the tenancy ending and the landlord receiving the forwarding address, the landlord may either repay the deposits or make an application for dispute resolution claiming against the deposits.

The tenant has indicated that the tenancy ended on July 31, 2021. I find that the fifteenth day from the end of tenancy, for the landlord to have either returned the deposits or filed for dispute resolution, was August 15, 2021.

I find that the tenant applied for dispute resolution on August 12, 2021, before the last day the landlord had to comply with the provisions of section 38(1) of the *Act*.

I find that the tenant made their application for dispute resolution too early.

Therefore, the tenant's application for a Monetary Order for the return of double the security deposit and the pet damage deposit is dismissed with leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of double the security deposit and pet damage deposit with leave to reapply.

I dismiss the tenant's application to recover the filing fee paid for this application without leave to reapply.

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: September 17, 2021

Residential Tenancy Branch