



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-DR

Introduction

This hearing was scheduled to convene at 1:30 p.m. this date concerning an application made by the tenants seeking a monetary order as against the landlord for return of the pet damage deposit and security deposit. The application was made by way of the Direct Request process which was referred to this participatory hearing, and an Interim Decision was provided to the tenants. The Interim Decision required the tenants to serve the landlord with a Notice of Reconvened Hearing and other required documents within 3 days of receiving the Interim Decision.

One of the 2 tenants attended the hearing and gave affirmed testimony, however the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the landlord joined the call. The tenant testified that the landlord was served with the Notice of Reconvened Hearing and all required documents by email on June 22, 2021. The tenant also testified that a previous substitutional service order was made. I have reviewed the Decision on the application for substitutional service which states, in part, that the Arbitrator found it reasonable to conclude that the landlord would receive the documents and have actual knowledge of the tenant's Notice if the documents are served to the landlord's email address.

The tenants have also provided a copy of an email to the landlord showing the required documents as attachments dated June 22, 2021, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act* and order of the director.

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit and pet damage deposit?

Background and Evidence

The tenant testified that this month-to-month tenancy began on August 1, 2019, and ended on October 1, 2019. The landlord gave the tenants a notice to end the tenancy, but not in the approved form, just by email and text messaging saying that the tenants had to move out within a month. Then the landlord threatened to have the tenants removed by a Bailiff.

Rent in the amount of \$1,400.00 was payable on the 30th or 31st days of each month and there are no rental arrears. On July 15, 2019 the landlord collected a security deposit from the tenants in the amount of \$700.00, and a pet damage deposit in the amount of \$700.00 was collected on July 25, 2019. Copies of the e-transfers have been provided as evidence for this hearing.

The rental unit is a basement suite and the landlord resided upstairs. The tenants discovered that the landlord was not the owner but a tenant of the owner.

A copy of the tenancy agreement has also been provided as evidence for this hearing but it is not signed by the landlord or by the tenants. The tenant testified that the landlord provided it to the tenants who signed it, scanned it and sent it back to the landlord by email; the tenants were in a different town at the time, but the landlord did not return a signed copy.

On October 17, 2019 the tenants provided the landlord with a forwarding address in writing by taping a note to the landlord's door and a photograph of that has been provided for this hearing. The landlord has not returned any portion of either deposit.

Analysis

The *Residential Tenancy Act* specifies that a landlord must return a security deposit and/or pet damage deposit to a tenant in full 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, or must make an application for dispute resolution claiming against the deposit(s) within that 15 day period. If the landlord fails to do either, the landlord must repay double the amount(s).

In this case, I find that the tenants moved out on October 1, 2019 and provided the landlord with a forwarding address in writing on October 17, 2019 by posting a note to the landlord's residence, which is deemed to have been served 3 days later, or October 20, 2019. The landlord had 15 days from then, or November 4, 2019 to return the

deposits. I am satisfied that the landlord has failed to comply with the law, and the tenants are entitled to double recovery of the deposits, or \$2,800.00.

I further order that the tenants be permitted to serve the landlord with the monetary order by email.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,800.00.

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: October 18, 2021

Residential Tenancy Branch