



Dispute Resolution Services

Page: 1

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 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 November 21, 2021.

The tenant submitted one signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on November 26, 2021, the tenant sent the landlords the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenant provided a copy of the Canada Post receipt containing two tracking numbers to confirm these mailings.

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 November 26, 2021 and are deemed to have been received by the landlords on December 1, 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 Landlord S.M. and the tenant on January 6, 2012, indicating a monthly rent of \$1,050.00, a security deposit of \$525.00, and a pet damage deposit of \$200.00, for a tenancy commencing on February 1, 2012
- A copy of a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit (the forwarding address) dated July 20, 2021
- 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 sent to the landlords by registered mail at 3:42 pm on July 28, 2021
- A copy of a Canada Post receipt containing the tracking number to confirm the forwarding address was sent to the landlords 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 June 1, 2021 and that the move-out inspection was done on June 30, 2021

Analysis

Paragraph 12 (1) (b) of the Residential Tenancy Regulation establishes that a tenancy agreement is required to be "signed and dated by both the landlord and the tenant."

I find that Landlord J.M. has not signed the tenancy agreement, which is a requirement of the Direct Request process.

For this reason, I will only proceed with the portion of the tenant's application naming Landlord S.M. as a respondent.

Section 38(1) of the *Act* states that the landlord has fifteen days from the end of tenancy and the date they received the forwarding address to either return the deposit(s) in full or make an application for dispute resolution claiming against the deposit(s).

Section 38(6) of the *Act* states that if the landlord does not return the deposit(s) or file a claim against them within the fifteen days, the landlord must pay the tenant double the amount of the deposit(s).

I have reviewed all documentary evidence and I find that the tenant paid a security deposit in the amount of \$525.00 and a pet damage deposit in the amount of \$200.00, as per the tenancy agreement and the pet damage deposit receipt.

I accept the following declarations made by the tenant on the Tenant's Direct Request Worksheet:

- The tenant has not provided consent for the landlords to keep all or part of the deposits
- There are no outstanding Monetary Orders against the tenant for this tenancy
- The tenant has not extinguished their right to the deposits in accordance with sections 24(1) and 36(1) of the *Act*.

I accept the tenant's statement on the Tenant's Direct Request Worksheet that the tenancy ended in June 2021.

In accordance with sections 88 and 90 of the *Act*, I find that the forwarding address was served on July 28, 2021 and is considered to have been received by Landlord S.M. on August 2, 2021, five days after its registered mailing.

I accept the evidence before me that Landlord S.M. has failed to return the deposits to the tenant and has not filed an Application for Dispute Resolution requesting to retain the deposits by August 17, 2021, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that Landlord S.M. must pay the tenant double the amount of the security deposit and the pet damage deposit in accordance sections 38(6) of the *Act*.

Therefore, I find that the tenant is entitled to a monetary award in the amount of \$1,450.00, double the amount claimed by the tenant for the security deposit and the pet damage deposit.

As the tenant was partially successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the tenant a Monetary Order in the amount of \$1,550.00 for the return of double the security deposit and the pet damage deposit and for the recovery of the filing fee for this application. The tenant is provided with this Order in the above terms and Landlord S.M. must be served with **this Order** as soon as possible. Should Landlord S.M. fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I dismiss the portion of the tenant's application for a Monetary Order naming Landlord J.M. as a respondent 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: January 06, 2022

Residential Tenancy Branch