



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-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 (the deposit) 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 December 9, 2021.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on December 10, 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 December 10, 2021 and are deemed to have been received by the landlord on December 15, 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 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 landlord and the tenant on September 28, 2019, indicating a monthly rent of \$4,500.00 and a security deposit of \$4,500.00, for a tenancy commencing on October 11, 2019
- A copy of a document which was signed by the landlord and the tenant on November 15, 2021, including the forwarding address for the tenant and a mailing address for the landlord
- 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 served to the landlord in person at 1:30 pm on November 15, 2021
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposit paid by the tenant, a partial reimbursement of \$2,963.89, and indicating the tenancy ended on July 15, 2021

Analysis

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 \$4,500.00 as per the tenancy agreement.

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

- The tenant has not provided consent for the landlord to keep all or part of the deposit
- There are no outstanding Monetary Orders against the tenant for this tenancy
- The tenant has not extinguished their right to the deposit 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 on November 15, 2021.

In accordance with section 88 of the *Act*, I find that the forwarding address was duly served to the landlord on November 15, 2021.

I accept the evidence before me that the landlord has failed to return the full deposit to the tenant and has not filed an Application for Dispute Resolution requesting to retain

the deposit by November 30, 2021, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that the landlord must pay the tenant double the amount of the security deposit in accordance sections 38(6) of the *Act*.

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

Therefore, I find that the tenant is entitled to a monetary award in the amount of \$6,136.11, calculated as follows:

Item	Amount
Doubling of Security Deposit (\$4,500.00 x 2)	\$9,000.00
Less portion returned by landlord	-\$2,963.89
Recovery of Filing Fee	\$100.00
Total Monetary Award to Tenant	\$6,136.11

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the tenant a Monetary Order in the amount of \$6,136.11 for the return of double the security deposit and for the recovery of the filing fee for this application. The tenant is provided with this Order in the above terms and the landlord must be served with **this Order** as soon as possible. Should the landlord 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.

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 14, 2022

Residential Tenancy Branch