



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A participatory hearing was held, via teleconference, on March 18, 2022. The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- An order that the Landlord return all or part of the security deposit or pet damage deposit

One of the Tenants, T.B., and the Landlord attended the hearing. All parties provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

At the start of the hearing, the Landlord stated he was not served with the Tenant's application, Notice of Hearing, and evidence package. Despite this, the Landlord wished to proceed with the hearing, and allow the Tenants' application to proceed, and for the Tenant's evidence to be admitted. As both parties were in agreement on this matter, I allowed the hearing to proceed, and for the Tenant's evidence to be admissible.

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

Issue(s) to be Decided

1. Are the Tenants entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

Background and Evidence

The parties confirmed the tenancy started on October 15, 2020, and ended on July 14, 2021, the day the Tenants moved out. Both parties also agreed that the Tenants paid a security deposit of \$3,550.00 and a pet deposit of \$1,000.00.

The Tenants stated that they received the security and pet deposit back, in full, sometime in October 2021, but they are looking for double the security/pet deposit because the Landlord failed to return the deposits in a timely manner.

The Landlord explained that there were some damages to the rental unit, which he had to investigate and discuss, which caused him delay in returning the deposits. The Landlord confirmed he did not file an application against the deposits, and he did not return them until October 8, 2021, via e-transfer.

The Landlord acknowledged getting the Tenants' forwarding address, in writing, sometime in June 2021, around a month before the tenancy ended. The Tenants were not sure on the exact date the forwarding address was provided but confirmed it was sometime in June 2021.

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, both parties confirmed that the Tenants moved out of the rental unit on July 14, 2021, which I find reflects the end of the tenancy. The Landlord confirmed that he received the Tenants' forwarding address sometime in June, around a month before the tenancy ended. Furthermore, there is no evidence that the Tenants authorized any deductions from the security deposit. Therefore, the Landlord had until July 29, 2021, to

either repay the security and pet deposit (in full) to the Tenants or make a claim against it by filing an application for dispute resolution. The Landlord did not file an application against the deposits, and both parties agree that the Landlord returned the security and pet deposits, in full, but not until October 8, 2021. By failing to act in a timely manner, I find the Landlord breached section 38(1) of the Act.

Accordingly, as per section 38(6)(b) of the Act, I find the Tenants are entitled to recover double the amount of the security and pet deposit (\$4,550.00 x 2), previously held by the Landlord, less the amount the Landlord has already given back. Further, section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenants were successful in this hearing, I also order the Landlord to repay the \$100.00 fee the Tenants paid to make the application for dispute resolution.

In summary, I make the monetary order as follows:

Item	Amount
Return of Double security/pet deposit (\$4,550.00 x 2)	\$9,100.00
Filing Fee	\$100.00
Less: Returned Portion of Security/Pet Deposit	(\$4,550.00)
Total Monetary Order	\$4,650.00

Accordingly, pursuant to section 67 of the Act, I grant the above monetary order based on the Landlord's failure to deal with the security deposit in accordance with section 38 of the Act.

Conclusion

I grant the Tenants a monetary order in the amount of **\$4,650.00**. 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: March 18, 2022