



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. The tenant applied on October 5, 2021 for:

- an order for the return of part or all of the security and/or pet damage deposit; and
- the filing fee.

Procedural History

This hearing was reconvened after it was adjourned on May 24, 2022. This decision should be read in conjunction with the Interim Decision issued on May 25, 2022.

The Interim Decision and notices of reconvened hearing (containing the call-in numbers for this hearing) were sent to each of the parties, at the emails addresses they provided to the Residential Tenancy Branch.

In each hearing, the parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

Preliminary Matter

In the reconvened hearing, the tenant's parents confirmed that the tenant did not intend to apply for the return of the security and/or pet damage deposit, but rather intended to apply for compensation for monetary loss. As further described in the Interim Decision, I find that the application does disclose the tenant's claim for monetary compensation in the amount of \$1,425.00, and I therefore amend the tenant's application accordingly,

pursuant to section 64(3)(c) of the Act. I find this does not prejudice the landlord as, though in a different spot on the application form, the tenant had provided sufficient details to notify the landlord of the nature and value of their claim.

The remainder of the decision will consider the tenant's application for compensation for monetary loss and for the filing fee.

Issues to be Decided

- 1) Is the tenant entitled to compensation for monetary loss?
- 2) Is the tenant entitled to the filing fee?

Background and Evidence

While I have considered all the evidence before me, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my related findings are set out below.

Those present agreed on the following particulars of the tenancy. It began on Feb 1, 2020, ended on September 15, 2021, and the tenant vacated the rental unit on the same date. Rent was \$950.00 a month, due on the first of the month, and the tenant paid a security deposit of \$475.00 which the landlord still holds.

The tenant's written submission states that as the landlord gave her an eviction notice for September 15, 2021, the landlord was entitled to only half the month's rent: \$475.00. The tenant stated that the Ministry of Social Development paid the landlord her September rent of \$950.00, and that the landlord did not return the \$475.00 for the second half of September.

The tenant's written submission states that as the paperwork she submitted to the Ministry was not processed in time to have her October 2021 rent sent to her new landlord, the cheque was sent to the subject landlord, PL. The tenant stated that though she told landlord PL she would pick up the cheque, and not to cash it, the landlord cashed the cheque and refused to return the money to the tenant, stating she was keeping it for damage money.

The tenant's written submission states that as a result, she was unable to pay her rent to the new landlord, and her parents paid it.

The landlord testified that as there was extensive damage to the unit, amounting to more than the \$475.00 security deposit, the tenant's rent money was used for damages. The landlord stated that if there is another process to recover their losses, they have receipts.

The landlord testified that they deposited the \$950.00 cheque, but can return it to the Ministry if needed.

The tenant's parent submitted that as they paid the tenant's rent [for October 2021], the money should go to them, not the Ministry.

Analysis

The definition of "rent" found in the Act includes the following:

"rent" means money paid or agreed to be paid, or value or a right given or agreed to be given, by or on behalf of a tenant to a landlord in return for the right to possess a rental unit, for the use of common areas and for services or facilities

The parties agreed that the tenancy ended on September 15, 2021; the tenant vacated the rental unit on the same date; the landlord did not return the tenant's rent for the second half of September 2021, in the amount of \$475.00; and the landlord cashed the tenant's October 2021 rent cheque, in the amount of \$950.00, and did not pay the tenant the money back.

I find the landlord has not made an application for monetary compensation in response to the tenant's application.

Considering the Act's definition of "rent," as the tenant vacated the rental unit on September 15, 2021, I find the landlord was not entitled to retain the \$475.00 the tenant paid for the second half of September, and was not entitled to any rent for October 2021.

Therefore, in accordance with section 67 of the Act, I find the tenant is entitled to a monetary award in the amount of \$1,425.00.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the tenant is successful in their application, I order the landlord to pay the \$100.00 filing fee the tenant paid to apply for dispute resolution.

I find the tenant is entitled to a monetary order in the amount of \$1,525.00, comprised of the return of the \$1,425.00 and \$100.00 for the filing fee.

Conclusion

The tenant's application is granted.

The tenant is granted a monetary order in the amount of \$1,525.00.

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: June 29, 2022

Residential Tenancy Branch