

DECISION

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that the Landlord was served on August 10, 2023, by registered mail in accordance with section 89(1) of the Act. The Tenant provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this service.

Service of Evidence

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

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Issues to be Decided

Is the Tenant entitled to a Monetary Order for damage or loss under the Act, regulation or tenancy agreement?

Is the Tenant entitled to recover the filing fee for this application from the Landlord?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on July 1, 2022, with a monthly rent of \$655.00, due on first day of the month.

Both parties agree that on July 1, 2022 the Tenant paid the Landlord:

- first months' rent of \$655.00,
- last months' rent of \$655.00, and
- security deposit of \$330.00.

The tenancy agreement entered into evidence was signed by both parties states:

A deposit of \$330 is payable to secure the accommodation. This becomes the damage deposit upon tenancy and is refunded on the last day upon inspection.

First month (\$655 for July month) and final month rent (\$655) is paid at the commencement of the tenancy (total \$1330). Subsequently, rent for August month is paid by first August, and so on, monthly.

Both parties agree that the Tenant moved out on July 31, 2023 after providing notice to end tenancy to the Landlord on July 5, 2023. The Landlord testified that the Tenant did not provide one month's notice to end tenancy and she was unable to rent the property until August 28, 2023. Both parties agree that the Landlord returned the security deposit to the tenant on July 31, 2023 and \$170.00 of "last months' rent" to the Tenant on August 1, 2023. The Landlord testified that since she was able to get a new tenant for August 28, 2023 she returned double the per diem rate of August 28-31, 2023. The Landlord testified that she doubled the per diem rate to end the tenancy on a positive note.

The Tenant testified that the Landlord was not permitted to charge him for "last months' rent" at the start of the tenancy and that the payment of \$655.00 for "last months' rent" amounted to an additional security deposit. The tenant testified that he is seeking the return of the improperly collected deposit.

Analysis

Is the Tenant entitled to a Monetary Order for damage or loss under the Act, regulation or tenancy agreement?

To be awarded compensation for a breach of the Act, the tenant must prove:

- the landlord has failed to comply with the Act, regulation or tenancy agreement
- loss or damage has resulted from this failure to comply
- the amount of or value of the damage or loss
- the tenant acted reasonably to minimize that damage or loss

The Act, tenancy agreement and regulation do not prohibit tenants from paying rent in advance of its due date. I find that the Landlord and the Tenant freely entered into the tenancy agreement and were permitted to agree when and how rent was to be paid. I find that the Tenant agreed to pay the last months' rent at the start of the tenancy. I find that this agreement does not breach the Act, tenancy agreement or Act. I find that the "last months' rent" paid by the Tenant did not amount to an additional security deposit or an improperly collected deposit. The Tenant's application for dispute resolution is dismissed because the Tenant has failed to prove that the Landlord breached the Act, regulation or tenancy agreement.

Is the Tenant entitled to recover the filing fee for this application from the Landlord?

As the Tenant was not successful in this application, the Tenant's application for authorization to recover the filing fee for this application from the Landlord under section 72 of the Act is dismissed, without leave to reapply.

Conclusion

The Tenant's application is dismissed in its entirety, 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 Act.

Dated: January 30, 2024

Residential Tenancy Branch