

DECISION

Introduction

The Tenant filed an Application for Dispute Resolution under the *Residential Tenancy Act* (Act) for:

- a Monetary Order for the return of all or a portion of their security/pet damage deposit pursuant to sections 38 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Background and Evidence

The tenancy started March 18, 2023, and was for a fixed term until September 30, 2023. The rent was \$3,100.00 per month due on the 30th day of the month. A security deposit of \$1,550.00 was paid. The tenancy ended September 21, 2023 as the occupants had left.

The Tenant's agent testified that they signed a Tenancy Agreement on March 10, 2023 with a Landlord and advised them that they were renting the unit for a company employee. The corporate Tenant paid a security deposit. On March 18, 2023 the employee occupant MC took possession of the rental unit.

At the end of the tenancy September 21, 2023, the Landlord testified they noted damage to the rental unit on the move out inspection report. The move out inspection was conducted by the Landlord with an agent of the corporate Tenant who signed the tenancy agreement. The move in/move out inspection was provided in evidence. The Tenant testified that they did not agree that the Landlord could retain any part of the security deposit.

The Tenant provided their forwarding address by email on September 25, 2023 and provided proof of service in evidence.

The Tenant testified that they have not received the return of their security deposit.

The Landlord testified that they completed the move in inspection with the occupant of the rental unit and the move out inspection with an agent of the Tenant.

Analysis

Is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit?

Section 38(1) of the Act states that within 15 days of the date of receiving the Tenant's forwarding address, the Landlord must do one of two things:

- repay the security deposit, or
- file an application for dispute resolution

The evidence of the Tenant is that they have not received any portion of the security deposit. I have no evidence before me that the Landlord filed an application for dispute resolution to retain the security deposit within 15 days of receiving the Tenant's forwarding address sent September 25, 2023.

Upon review of the move in/move out inspection report, I find that the Tenant properly participated with both move in and move out inspections of the rental unit and therefore did not extinguish their right under the Act to claim the security deposit.

If the Tenant has not extinguished their right to claim the deposit under the Act and the Landlord has neither returned the deposit nor filed a claim against the deposit within 15 days of receiving the Tenant's forwarding address, section 38(6) of the Act states that the Landlord must pay the Tenant double the security deposit. Section 38.1 allows the Director to make an order requiring the Landlord to return double the security deposit.

The Landlord is still entitled to make a claim for damages against the Tenant, however they are not entitled to retain the security deposit.

I find that the Tenant is entitled to return of double the amount of the security deposit, in the amount of \$3,100.00.

Is the Tenant Entitled to Authorization to Recover the Filing Fee for Their Application?

As the Tenant was successful in their application, they are entitled to recover the \$100.00 filing fee for their application.

Conclusion

The Tenant's application is granted. The Tenant is entitled to a Monetary Order as follows:

Claim	Amount
Security Deposit (double)	\$3,100.00
Filing Fee	\$100.00
Total	\$3,200.00

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: March 7, 2024

Residential Tenancy Branch