



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for an order for the return of double the security deposit and for the recovery of fee paid to file this application. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy began on October 01, 2008 and ended on September 30, 2009. The monthly rent was \$1,750.00. On September 02, 2008 the tenant paid a security deposit of \$875.00 and on September 22, 2008 the tenant paid a pet deposit of \$875.00.

Both parties conducted a move out inspection on September 30, 2009 and the landlord acknowledged that the rental unit was in good condition and that he agreed to return the security and pet deposits to the tenant, without deduction. The landlord also stated that the tenant failed to return the mail box keys and the garage door opener. The tenant acknowledged that these items were not returned to the landlord on September 30, 2008. The tenant stated that the mail box keys were lost and that she mailed the garage door opener to the landlord by regular mail.

The landlord stated that he did not receive the garage door opener in the mail and filed an estimate for its replacement in the amount of \$77.06. The landlord stated that the mail box keys were replaced by Canada post at no charge.

On October 13, 2009, the landlord gave the tenant a cheque for the return of the deposits plus the accrued interest with a deduction of \$100.00. The landlord stated that he retained \$100.00 from the security deposit, to cover the cost of replacing the garage door opener. The tenant did not agree to the deduction and filed for dispute resolution.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

I find the landlord failed to repay the full security deposit or make an application to retain a portion of the security deposit within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit that he retained without the tenant's consent.

The landlord currently holds a portion of the security deposit in the amount of \$100.00 and is obligated under section 38 to return double this amount to the tenant.

Accordingly, I find that the tenant has established a claim of \$200.00 and since she has proven her case, is also entitled to the filing fee of \$50.00.

Conclusion

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$250.00**. This order may be filed in the Small Claims 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 06, 2010.

Dispute Resolution Officer