



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNSD, FF

Introduction

This Dispute Resolution hearing was convened to deal with an Application by the tenant for a monetary order for the return of the remainder of the security deposit retained by the landlord.

Both parties appeared at the hearing and gave evidence.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit pursuant to section 38 of the Act?

Background and Evidence

Submitted into evidence were copies of communications and photographs.

The tenancy was a sub-rent from the existing tenant and began in November 2011 with rent of \$980.00. A security deposit of \$980.00 was paid.

The tenant testified that the landlord had never returned \$200.00 of the security deposit and the tenant expected a full refund. The tenant and landlord testified that the amount of the deposit being retained was further reduced by \$50.00 because the tenant used paid this to make their application for dispute resolution. According to the tenant, \$150.00 is still being held and the tenant now seeks a monetary order against the landlord and reimbursement for the \$50.00 cost of the application.

Analysis

In regard to the return of the security deposit and pet damage deposit, I find that section 38 of the Act provides that, within 15 days after the later of the day the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit or pet damage deposit to the tenant or

make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) provides that If a landlord does not comply with the Act by refunding the deposit owed or making application to retain it within 15 days after receipt of the tenant's written forwarding address, the landlord may not make a claim against the security deposit and must pay the tenant double the amount of the security deposit.

In this instance I find that the tenant did not give the landlord a written forwarding address and the landlord could not have made any claim against the deposit until this application was served on the landlord featuring a service address for the tenant.

Given the above, I find that the tenant is entitled to a refund of the remainder of the security deposit in the amount of \$150.00 plus the \$50.00 cost of this application.

Based on the testimony and evidence presented during these proceedings, I find that the tenant is entitled to compensation of \$200.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The tenant is granted a monetary order for a refund of his remaining security deposit.

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: December 04, 2012.

Residential Tenancy Branch