Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing concerns the tenant's application for a monetary order as compensation reflecting the double return of the security deposit / and recovery of the filing fee. Both parties attended and/or were represented and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy was from January 1 to November 30, 2012. The agreement provides that the tenant must vacate the unit at the end of the fixed term. Monthly rent of $1,350.00 was due and payable in advance on the first day of each month, and a security deposit of $675.00 was collected.

By handwritten note to the landlord dated November 19, 2012, the tenant confirmed that he would vacate the unit effective November 30, 2012. Further, in his note the tenant provided a forwarding address for the purposes of repayment of the security deposit.

Subsequently, the landlord withheld $100.00 from the security deposit and within a few days after the end of November 2012 the landlord mailed a cheque to the tenant for the balance of the security deposit of $575.00 ($675.00 - $100.00).

The tenant filed his application on January 11, 2013. During the hearing the parties agreed that sometime thereafter, by way of cheque in the amount of $150.00, the landlord repaid the previously withheld amount of $100.00, in addition to reimbursing the tenant's $50.00 filing fee. However, during the hearing the tenant confirmed that he continues to seek compensation pursuant to the applicable provisions in the Act.

Analysis

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days of the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit of file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit and must pay the tenant double the amount of the security deposit.

In the circumstances of this dispute, I find that the landlord neither returned the full security deposit nor filed an application for dispute resolution within 15 days after the end of tenancy on November 30, 2012. Accordingly, I find that the tenant has established a claim in the amount of **$675.00**, which is calculated as follows:

$1,350.00 (double the original security deposit: 2 x $675.00)
+ $50.00 (filing fee)
$1,400.00

$575.00 (the amount initially paid to the tenant)
+ $150.00 (the amount more recently paid to the tenant)
MINUS: **$725.00**

$675.00 (the balance owed: $1,400.00 - $725.00)

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **$675.00**. Should it be necessary, this order may be served on the landlord, 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: April 4, 2013

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Residential Tenancy Branch