



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of the security deposit or pet damage deposit, and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and the landlord was accompanied by a co-landlord who acted as agent for the landlord. The tenant and the landlord's agent each gave affirmed testimony and were given the opportunity to question each other.

No issues with respect to service or delivery of documents or evidence were raised, however I explained to the parties that I am not able to open one of the documents provided by the tenant. All other evidence provided has been reviewed and is considered in this Decision.

Issues to be Decided

Has the tenant established a monetary claim as against the landlord for return of all or double the amount of the security deposit?

Background and Evidence

The tenant testified that this tenancy began about 5 years ago, and new tenancy agreements were entered into over time, the latest of which has been provided as evidence for this hearing. It states that the tenancy commenced on May 1, 2019 on a month-to-month basis, and also states that the tenancy is for a fixed period expiring on April 30, 2020. The tenant testified that he vacated the rental unit on June 5, 2020.

The tenancy agreement specifies rent in the amount of \$1,950.00 payable on the 1st day of each month, and the tenant testified that there are no rental arrears. It also specifies a security deposit in the amount of \$975.00, however the tenant testified that the original tenancy agreement specified a security deposit of \$850.00, which the tenant paid at the beginning of the tenancy, and no pet damage deposit was collected. The rental unit is an apartment in a condominium building.

The tenant provided the landlord with his forwarding address in writing in an email dated June 8, 2020, which was permitted at that time due to the Pandemic. The landlord has not returned any portion of the security deposit and has not served the tenant with an Application for Dispute Resolution claiming the security deposit. The tenant claims double the amount, or \$1,700.00 in addition to recovery of the \$100.00 filing fee.

The landlord's agent testified that the newest tenancy agreement provides for a security deposit of \$975.00, however the tenant only paid \$850.00 at the beginning of the tenancy.

The tenant changed his mind a few times about vacating the rental unit, stating that he could not move into his new accommodation because no new tenants were being permitted due to the Pandemic, and the tenant did not pay any rent for June, 2020.

The landlord's agent further testified that 2 complaints were received from the Strata; one for garbage behind the tenant's car and another for noise, and the landlord paid a strata fine.

The landlord's agent agrees that the tenant provided a forwarding address in an email on June 8, 2020.

Analysis

Firstly, the *Residential Tenancy Act* specifies that a landlord may only collect a security deposit once at the beginning of a tenancy, and even if rent increases, the security deposit does not increase.

The *Act* also specifies that a landlord must return a security deposit in full to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an Application for Dispute Resolution claiming against the security deposit within that 15 day period, unless the tenant agrees otherwise in writing. If the landlord fails to do either, the landlord must repay double the amount.

In this case, the tenant did not agree in writing that the landlord keep any portion of the security deposit. The parties also agree that the landlord received the tenant's forwarding address in writing in an email on June 8, 2020. The landlord has not made an Application for Dispute Resolution and has not returned any portion of the security deposit. Therefore, I find that the tenant has established a claim for double, or \$1,700.00.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,800.00.

This order is final and binding and may be enforced.

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 14, 2020

Residential Tenancy Branch