



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNSD MNDC FF

Introduction

This hearing dealt with an application by the tenants for a monetary order for money owed under the Act, double recovery of the security and pet deposits, and recovery of the filing fee for the cost of the application. Despite having been served the notice of hearing and application for dispute resolution by registered mail on July 24, 2008, the landlord did not attend the hearing.

Issue(s) to be Decided

Are the tenants entitled to double recovery of the pet and security deposits as per section 38?

Are the tenants entitled to compensation equivalent to one month's rent as per section 51?

Are the tenants entitled to the other monetary amounts claimed?

Background and Evidence

The tenancy began on May 1, 2007, with monthly rent in the amount of \$950. At the outset of the tenancy, the tenants paid a security deposit of \$500 and a pet deposit of \$250. On May 14, 2008 the landlord gave the tenants a note indicating that they had to vacate by June 30, 2008. The landlord then verbally informed the tenants that they had to vacate because he had made plans for his daughter's engagement party. The

tenants contacted the Residential Tenancy Branch and were informed that the landlord's note was not a valid notice to end tenancy. However, the tenants felt that the landlord began to act intolerably and on June 20, 2008 the tenants gave the landlord 10 days' notice of their intention to vacate. In that notice the tenants also provided their written forwarding address. The tenants moved out on June 30, 2008. On September 25, 2008, the tenants received a cheque from the landlord in the amount of \$632.39. The cheque was backdated to July 15, 2008 and indicated that it represented return of the security and pet deposits, less some deductions. The landlord did not make an application for dispute resolution to retain any part of the security deposit. The tenants are claiming the following: double recovery of the security and pet deposits; \$950 as compensation equivalent to one month's rent, in lieu of proper notice for landlord's use; \$871.56 for cleaning and moving expenses and costs to prepare for dispute resolution; and recovery of the \$50 filing fee for the cost of this application.

Analysis

In regard to the security and pet deposits, section 38 of the Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the deposits or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the deposits. I find that the tenants provided their forwarding address in writing on June 20, 2008 and the tenancy ended on June 30, 2008. I further find that the landlord has failed to repay the security deposit or make an application for dispute resolution within the required time frame. The tenants have therefore established a claim for the security and pet deposits of \$750, accrued interest of \$16.01, and double the base amount of the deposits in the amount of \$750, for a total of \$1516.01.

In regard to the claim for one month's compensation, section 51 of the Act states that a tenant who receives a notice to end tenancy for landlord's use is entitled to receive compensation equivalent to one month's rent. In this case, the tenants did not receive a valid notice to end tenancy for landlord's use, and they are therefore not entitled to

compensation as per section 51. I therefore dismiss that portion of the tenants' application.

In regard to the tenants' monetary claims for cleaning and moving expenses, I find that the tenants are not entitled to these amounts, as they chose to end the tenancy and move out. Further, the tenants are not entitled to recovery of their costs for pursuing dispute resolution. I dismiss these portions of the tenants' application.

The tenants are entitled to recover the \$50 filing fee for this application.

Conclusion

The tenants have received from the landlord a cheque in the amount of \$632.39, which they may cash and which I deduct from the amount owing. I grant the tenants an order under section 67 for the balance due of \$933.62. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated September 29, 2008.