



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: MNSD, FF

Introduction:

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

1. Monetary order for double the security deposit; and
2. Monetary order for the filing fees paid for this application.

I accept that the landlord was properly served with the Application for Dispute Resolution hearing package.

Both parties were given a full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Background and Evidence

The tenants testified that they paid a security deposit of \$625.00 on February 2, 2007. The tenancy ended on April 1, 2008. The tenants testified that their mailing address has never changed and the landlord was aware of their address. The tenants testified that they requested the return of their security deposit several times but, to date, the deposit has not been returned. The tenants testified they served the landlord with their Application for Dispute Resolution which also shows their address. The landlord testified that he received that application on July 25, 2008. The tenants testified that they have not been served with an Application for Dispute Resolution filed by the



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2

landlord requesting an Order to retain the security deposit nor an Order of the Residential Tenancy Branch allowing the landlord to retain the deposit.

Findings

In most situations, section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address, to either return the deposit or file an application to retain the deposit.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the security deposit (section 38(6)).

I find that the landlord received the tenant's forwarding address on July 25, 2008 and has not, to date, returned the deposit plus applicable interest to the tenants. I must therefore award the tenants double the security deposit with interest accruing on the original portion of the deposit.

I find further that the tenants are entitled recover the \$50.00 filing fee paid for this application.

Total monetary award payable by the landlord to the tenant:

Security Deposit paid on February 1, 2007	\$625.00
Double Security Deposit	625.00
Interest on original amount paid from date security deposit paid to date of this order	15.59
Filing Fees	50.00
TOTAL MONETARY AWARD	\$1315.59