



Dispute Resolution Services

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

Decision

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenants for the return of their security deposit and compensation under section 38 of the Act. Both parties participated in the conference call hearing and had opportunity to be heard.

Issue(s) to be Decided

Are the tenants entitled to the return of double their security deposit?

Background and Evidence

The parties agreed that the tenancy began on February 1, 2008 and ended on July 1, 2008. The tenancy agreement specified that the tenancy was to last for a fixed term of one year, ending on January 31, 2009 and contained a liquidated damages provision requiring the tenants to pay liquidated damages of \$1,300.00 plus GST if the tenants broke the lease prior to the end of the fixed term. At the outset of the tenancy the landlord collected from the tenants security and pet deposits, each in the amount of \$1,300.00.

At the end of the tenancy one of the tenants, _____, who did not participate in the hearing, participated in a condition inspection of the rental unit and signed a condition inspection report at which time he provided a forwarding address to the landlord. On the condition inspection report, _____ agreed to deductions from his security deposit of \$1,300.00 plus GST for liquidated damages, \$600.00 – \$700.00 for repairs and \$53.55 for cleaning. _____ also agreed to a \$100.00 deduction from the pet deposit.

Analysis

I find that _____ represented the tenants during the final inspection of the property and that his agreement with the deductions from the security and pet deposits is binding on both the tenants. I note that the deductions from the security deposit exceed the amount of the security deposit and interest and find that the landlord is not obligated to return any part of the security deposit. I find that _____ agreed to a \$100.00 deduction from the pet deposit. I further find that the tenants provided their forwarding address to the landlord on or about July 1. Section 38(1) of the Act provides that the landlord must return the pet deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. I find the landlord failed to repay the \$1,200.00 outstanding on the pet deposit or make an application for dispute resolution within 15 days of receiving the tenants' forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenants double the amount of the pet deposit.

The landlord currently holds a pet deposit of \$1,200.00 and is obligated under section 38 to return this amount together with the \$13.13 in interest which has accrued to the date of this judgment. The amount that is doubled is the \$1,200.00 of the pet deposit which was not returned to the tenants. I note that while the landlord gave evidence claiming further damages beyond the amount of the security deposit, he did not make an application for dispute resolution and accordingly my decision is made based solely on the tenants' application.

Conclusion

I grant the tenants an order under section 67 for \$2,463.13, which sum includes double the outstanding pet deposit, interest and the \$50.00 filing fee paid to bring this application. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated October 17, 2008.