

Dispute Resolution Services

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

Decision

Dispute Codes: MNSD

Introduction

This hearing dealt with an application by the tenant for a monetary order for the amount of the security deposit and applicable accrued interest. Both parties were represented and each provided testimony and participated in the hearing.

Issue(s) to be Decided

Is the tenant entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on January 1, 2008. The tenant paid a security deposit of \$550 to the landlord on January 3, 2008. The tenancy ended on May 1, 2008. There has been protracted communication between the tenant and landlord in respect to the security deposit, which the tenant has requested repeatedly for it to be returned. On November 10, 2008 the tenant made application for the security deposit to be returned in its entirety, minus \$50, plus interest. The tenant and Landlord agree that the tenant provided the landlord with a written forwarding address via e-mail on October 25, 2008. The landlord then recently returned \$275 of the security deposit on December 2, 2008, keeping \$275 for miscellaneous costs, but has not applied for dispute resolution to keep all or part of the security deposit.

Analysis

Section 38 of the Residential Tenancy Act requires that 15 days after the latter of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution.

Section 38(1) of the Act provides as follows:

38(1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

38(1)(a) the date the tenancy ends, and

38(1)(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

38(1)(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

38(1)(d) file an application for dispute resolution to make a claim against the security deposit or pet damage deposit.

If the landlord fails to repay the security deposit or make application for dispute resolution within 15 days of receiving the tenant's forwarding address, then the tenant is entitled to recovery of double the base amount of the security deposit.

I find that the landlord failed to repay the balance of the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing and is therefore liable under section 38(6) which provides:

38(6) If a landlord does not comply with subsection (1), the landlord

38(6)(a) may not make a claim against the security deposit or any pet damage deposit, and

38(6)(b) **must** pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

Conclusion

I find that the tenant has established a claim for the security deposit of **\$550**, accrued interest of **\$7.91**, and double the base amount of the security deposit in the amount of **\$550**, for a total of **\$1107.91**. The amount that is doubled is the \$550 base amount of the deposit before interest.

The landlord is permitted to deduct from this claim any amount which the tenant and landlord agree has already been returned to the tenant.

I grant the tenant an order under section 67 for the sum of **\$1107.91**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: December 16, 2008