



Dispute Resolution Services

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

Decision

Dispute Codes: MNSD RPP FF

Introduction

This hearing dealt with an application by the tenants for a monetary order for return of the security deposit, the applicable interest and double the base amount of the security deposit and an order for the landlord to return the tenants' personal property.

Neither party submitted any documentation in support of their claims and assertions pertaining to this tenancy. My findings and conclusions are therefore based solely on the parties' verbal testimony.

Issues to be Decided

- 1) Whether the tenants are entitled to return of their security deposit, the applicable interest and double the base amount of the security deposit?
- 2) Whether the landlord should return the tenants' personal property?

Background and Evidence

The landlord collected a security deposit of \$400.00 from the tenants on March 31, 2008. The tenants began their tenancy on April 1 with an obligation to pay a monthly rent of \$800.00 in advance on the first of each month.

Sometime in June, the tenant moved out of the rental unit and the June rent check was returned because of insufficient funds in the tenants' account. On

July 1, the landlord gave the remaining tenant #2 verbal notice as well as a note to end tenancy on August 31. The landlord said that tenant #2 was late in paying rent for both of the months of July and August. On August 31, the landlord confronted tenant #2 as to why he had not moved out of the rental unit. On September 3 or 4, tenant #2 moved all of his personal property to the boat shed located on the property.

Issue #1 – return of the tenants’ security deposit, the applicable interest and double the base amount of the security deposit

During the hearing, the tenants said that they did not give the landlord their written forwarding address. However, the tenants also said that they did serve the landlord the documents pertaining to this hearing by registered mail. I note that these documents do contain the tenants’ written forwarding address. The tenants did not provide either a date or tracking number for such service. At the same time, the landlord did attend this hearing and raised no issue pertaining to receiving these documents within the prescribed timeframe of 5 days from the application for dispute resolution date of November 3. Therefore, the landlord is deemed to have received the tenants’ written forwarding address on or before November 8.

Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenants providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenants are entitled to recovery of double the base amount of the security deposit. I find that the tenancy ended on September 3 or 4, 2008, and that the tenants provided their forwarding address in writing on or before November 8. I further find that the landlord has failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenants’ forwarding address in writing.

I find that the tenants have established a claim for the security deposit of \$400.00, accrued interest of \$4.15, and double the base amount of the security deposit in the amount of \$400.00, for a total of \$804.15. The tenants are also entitled to recover the \$50.00 filing fee for this application. I grant the tenants an order under section 67 for the balance due of \$854.15. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Issue #2 – Whether the landlord should return the tenant's personal property

During the hearing, the landlord and tenant #2 reached a settlement agreement pertaining to the return of tenant #2's personal property with the following terms. Tenant #2 will pick up his personal property from the boat shed located on the property between 3 pm to 4 pm on December 15, 2008. Should tenant #2 fails to pick up his personal property at the specified date and time, the landlord will consider tenant #2 to have abandoned his personal property. The landlord may then deal with the tenant #2's personal property in accordance with the Regulations.

Dated: December 08, 2008