



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 tenant, pursuant to the *Residential Tenancy Act* for a monetary order for the return of all of the security deposit and compensation for loss under the Act and to recover the filing fee for this application.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issues to be Decided

Is the tenant entitled to the return of the security deposit, plus double the base amount and the cost of filing this application?

Background and Evidence

The tenancy started on October 01, 2005 and the tenant paid a security deposit of \$375.00 on September 25, 2005. The tenant moved out on August 01, 2008 and stated that he provided the landlord with his forwarding address on August 02, 2008 by placing a written note in the landlord's mail box. The tenant also stated that sometime in early September 2008, he placed another note with his forwarding address in the landlord's mailbox. The landlord stated that he did not receive any note from the tenant and did not hear back from him. The tenant agreed that he did not call the landlord after he moved out of the rental unit.

During the hearing the landlord and tenant came to an agreement that there was some damage to the rental suite as a result of negligence on the tenant's part and both parties agreed to the following terms:

- The landlord will retain \$200.00 from the security deposit and return the balance of \$175.00 with interest to the tenant.

- The tenant will accept \$175.00 plus interest in full satisfaction of the tenant's claim.

Both parties recognize that the above terms are binding on both parties.

Analysis

Section 38 (1) of the *Residential Tenancy Act* states that within 15 days after the later of the date the tenancy ends or the date that the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit to the tenant with interest or make an application to claim against the security deposit. I find that the tenancy ended on August 01, 2008, and on a balance of probabilities, it is more likely than not that the tenant failed to provide the landlord with a forwarding address in writing. Accordingly, I find that the tenant is not entitled to the return of double the base amount of the security deposit. However, since the parties reached a mutual agreement to settle this matter, I order that the landlord retain \$200.00 from the security deposit and interest of \$388.14 and I grant the tenant an order under section 67 of the *Residential Tenancy Act* for the balance due of \$188.14. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenant has claimed the filing fee in the amount of \$50.00 and I find that this fee must be borne equally by both parties. Hence the tenant is entitled to \$25.00 towards the filing fee, for a total of \$213.14.

Conclusion

I grant the tenant a monetary order in the amount of **\$213.14** in full and final satisfaction of his claim against the security deposit on the dispute rental unit.

Dated December 23, 2008.

Dispute Resolution Officer