

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 for a monetary order for the amount of the security deposit and compensation under section 38. The application is inclusive of an application for recovery of the filing fee for the cost of this application.

Both, the tenant and the landlord were represented at today's hearing

Issue(s) to be Decided

Is the tenant entitled to the monetary amounts claimed?

Background and Evidence

The undisputed facts before me, under solemn affirmation by both parties, are as follows.

The tenancy began on September 06, 2006 and ended on October 29, 2008. The landlord collected a security deposit of \$325 at the outset of the tenancy. On November 20, 2008, the landlord had received and was in possession of the tenant's forwarding address in writing and request for the return of the security deposit.

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.

Analysis

I find that the landlord failed to repay the security deposit or to 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.

The landlord currently holds a security deposit of **\$325** and was obligated under section 38 to return this amount together with the **\$9.49** in interest which had accrued. The amount which is doubled is the \$325 base amount of the deposit before interest.

Conclusion

I find that the tenant has established a claim for **\$659.49**. The tenant is also entitled to recovery of the **\$50** filing fee. I grant the tenant an order under section 67 for the sum of **\$709.49**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 20, 2009