



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: MNSD & FF

Introduction:

This hearing dealt with an application by the tenants seeking a monetary claim for the return of double their security deposit plus interest. Although the landlord was served with notice of this hearing and application by registered mail, he did not appear for the hearing. The tenants provided evidence confirming that the registered package was successfully delivered. I accept that the landlord has been properly served with notice of this proceeding and I have conducted the hearing in the landlord's absence.

Although the tenants have requested additional costs for this hearing, I have not considered these additional claims. The tenants failed to properly amend their application for dispute resolution to identify that they were seeking compensation for loss or damage under the *Act* and the original application was dealing only with the return of their security deposit. Also, the tenants' confirmed that the landlord did not receive a copy of bills as the landlord did not accept the mailing package that was sent to him previously.

As a result I have only considered the tenants application for the return of double their security deposit plus interest in this decision. The tenants may file a separate application for additional compensation they are seeking.

Issue to be Determined:

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

Background and Evidence:

In the absence of any evidence from the landlord, I accept the evidence of the tenants that this tenancy began on October 1, 2005 for the monthly rent of \$2,800.00 and a security deposit of \$1,400.00 paid September 8, 2005. I accept the tenancy ended as of September 30, 2008.

I accept the evidence of the tenants that the landlord failed to conduct written move in and move out condition inspections. However, the tenants acknowledged that there was a move out walk through done with the landlord's agent at the end of the tenancy.

Throughout October and November 2008 the tenants attempted to discuss the return of their security deposit with the landlord. They also spoke with the landlord's agent. The tenants stated that on approximately November 9, 2008 they had a telephone conversation with the landlord about the security deposit and he indicated that he was going to follow up after looking into some possible charges due to damage to the rental

unit. The tenants stated that they sent the landlord their forwarding address and copies of the receipts from having some plumbing done to the landlord in November 2008. This registered package was not claimed by the landlord. The tenants did not provide any evidence that they gave their forwarding address to the landlord's agent.

The tenants filed this application on December 9, 2008 after not receiving their security deposit or any contact from the landlord. The landlord received this package but did not appear for the hearing.

The tenants seek a monetary claim for the return of double their security deposit plus interest and recovery of the \$50.00 filing fee paid for this application.

Analysis and Reasons:

The landlord is required by the *Act* to conduct written move-in and move-out condition inspection reports and if a landlord does not complete the inspections then they have no right to retain the security deposit. A landlord is also required under section 38 of the *Act* to return a tenant their security deposit within 15 days of the end of the tenancy or after receiving a written forwarding address.

I the circumstances before me I am not satisfied that the landlord has received the tenants' forwarding address in writing. Although the tenants' sent their address to the landlord by registered mail this package was not received. The tenants have not provided me with any evidence that they provided their forwarding address to the landlord's agent.

I accept however that the landlord has extinguished any right to retain the tenants' security deposit and it must be returned. The landlord effectively had 15 days to return the tenants' security deposit plus interest after receiving their forwarding address when he received the tenants address as part of the notice of this application and hearing.

Conclusion:

I find that the tenants' application for the return of double their security deposit is premature and I dismiss their application with leave to re-apply.

Dated February 02, 2009.

Dispute Resolution Officer