



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

MNR, MNSD, MNDC, & FF

Introduction

This hearing dealt with cross applications by the parties. The tenants filed an application seeking the return of their security deposits plus interest. The landlord applied for a monetary claim related to non-payment of rent and a request to retain the tenants' security deposit plus interest in partial satisfaction of their claim.

Despite being served with notice of the tenants' application and notice of hearing, and filing their own application, the landlords failed to appear for the hearing. I proceeded with the application in the landlords' absence.

Issues(s) to be Decided

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

Background and Evidence

This tenancy began on November 1, 2008 for the monthly rent of \$1,400.00 and a security deposit of \$700.00. The tenancy ended effective January 31, 2009. The landlords did not complete move in or move out condition inspection reports.

The tenants presented evidence that they provided the landlords with their forwarding address in writing on March 11, 2009 and evidence of e-mail correspondence with the landlords. In the e-mail correspondence the landlords and the tenants attempted to reach a mutual agreement to resolve their dispute but it was not successful.

The tenants' seek the return of double their security deposit plus interest pursuant to section 38 of the *Act*.

The landlords failed to appear for this proceeding and provided no documentary evidence in defence of the tenants' application or in support of their application.

Analysis

The tenants acknowledged being served with notice of the landlords' application and were prepared to respond. As the tenants' were available and ready to proceed I find



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that it would be unfair to allow the landlords' the opportunity to re-apply. Therefore, the landlords' application is dismissed without liberty to re-apply.

In the absence of any evidence from the landlords', I accept the evidence of the tenants that they provided the landlords with a forwarding address in writing on March 11, 2009. Pursuant to section 38(1) of the *Act* the landlords had fifteen (15) days to either return the tenants' security deposit in full or to file an application to retain the security deposit.

I find that the landlords failed to comply with section 38(1) of the *Act* and must pay the tenants' double their security deposit plus interest pursuant to section 38(6) of the *Act*. I also Order that the landlord reimburse the tenants' \$50.00 in recovery of the filling fee paid for their application.

Conclusion

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

I find that the tenants' have established a monetary claim and I grant the tenants a monetary Order for the sum of **\$1,451.75** comprised of double the security deposit, \$1.75 in accumulated interest plus the recovery of the \$50.00 filling fee. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The landlords' application is dismissed without leave to re-apply.

Dated: July 03, 2009.

Dispute Resolution Officer