



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 from the tenants for a monetary order for double return of their security deposit, and recovery of the filing fee for this application. Both tenants participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the landlord did not appear.

Issue to be decided

- Whether the tenants are entitled to a monetary order under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on April 1, 2007. Rent in the amount of \$1,050.00 was payable on the first day of the month, and a security deposit of \$550.00 was collected on April 18, 2007.

By letter dated on or about January 27, 2009, the tenants provided notice to the landlord of their intent to vacate the unit effective at the end of February 2009. On March 1, 2009 the tenants participated in a move-out condition inspection with the landlord. On that occasion the tenants provided the landlord with their forwarding address in writing on the move-out condition inspection report, and he advised them he would mail them a cheque for return of their security deposit. Subsequently, the tenants have received neither a copy of the move-out condition inspection report nor their security deposit.

Analysis

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**.

In particular, section 38(1) states:

38(1) Except as provided in subsection (3) or (4)(a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(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;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Further, section 38(6) of the Act provides:

38(6) If a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

Based on the documentary evidence and undisputed testimony of the tenants, I find that the landlord did not return the tenants' security deposit within 15 days either, of the end of tenancy, or the date when the tenants informed the landlord in writing of their forwarding address. Further, I find that neither did the landlord apply for dispute resolution in order to make a claim against the tenants' security deposit.

Accordingly, pursuant to all of the above information I find that the tenants have established a claim of \$1,114.16. This is comprised of double the security deposit of \$1,100.00 (2 x \$550.00) in addition to interest calculated on the original amount of the security deposit of \$14.16. As this outcome favours the tenants, I also find they are entitled to recovery of the \$50.00 filing fee. I therefore grant the tenants a monetary order under section 67 of the Act for \$1,164.16 (\$1,100.00 + \$14.16 + \$50.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the tenants in the amount of **\$1,164.16**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order of that Court.

DATE: June 23, 2009

Dispute Resolution Officer