

DECISION

Dispute Codes

MNSD, FF

Introduction

This is an application by the Tenants for a monetary order for return of double the security deposit and the filing fee for the claim.

I find the Tenants served the Landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on July 2, 2009, and deemed received under the Act five days later. Despite this, no one appeared on behalf of the Landlord.

Issue(s) to be Decided

Has there been a breach of Section 38 of the Residential Tenancy Act by the Landlord?

Background and Evidence

The Tenants paid a security deposit of \$475.00 on November 27, 2004.

The Tenants vacated the premises on May 1, 2009. The Tenants provided the Landlord with a written notice of the forwarding address to return the security deposit to, and did not sign over a portion of the security deposit.

Analysis

There was no evidence to show that the Tenants had agreed, in writing, that the Landlord could retain any portion of the security deposit, plus interest.

There was also no evidence to show that the Landlord had applied for arbitration, within 15 days of the end of the tenancy or receipt of the forwarding address of the Tenant, to retain a portion of the security deposit, plus interest.

The Landlord also did not return the security deposit and interest to the Tenants within the required 15 days.

Conclusion

The Landlord has breached section 38 of the Act. The Landlord is in the business of renting and therefore, has a duty to abide by the laws pertaining to Residential Tenancies.

I find that the Landlord is not entitled to retain any portion of the security deposit or interest.

Having made the above findings, I must Order, pursuant to section 38 and 67 of the Act, that the Landlord pay the Tenants the sum of **\$1,016.81**, comprised of double the security deposit (\$475.00 x 2), the interest on the original amounts held (\$16.81), and the \$50.00 fee for filing this Application.

The Tenants are given a formal Order in the above terms and the Landlord must be served with a copy of this Order as soon as possible. Should the Landlord fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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*.

Dated: October 14, 2009.

Dispute Resolution Officer