

DECISION

Dispute Codes MNDC, MNSD, SS, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution for return of his security deposit and compensation for loss or damage under the Act.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary Order for all or part of the security deposit; for compensation for damage or loss; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant submitted into documentary evidence the following:

- A copy of a tenancy agreement signed by the parties on April 28, 2007 for a month to month tenancy beginning on May 1, 2007 for monthly rent of \$700.00 due on the 1st of the month. A security deposit of \$350.00 was paid on May 1, 2007;
- A copy of a letter to the then property manager outlining some issues with the rental unit (missing bedroom door) and the loss of some food and a bicycle from a common area;
- Copies of rent receipts;
- A copy of the move out Condition Inspection Report completed on September 1, 2007 signed by both parties and listing the tenant's forwarding address;
- Various receipts and results from the tenant's attempts to find the owner or their agent of the rental property.
- A recent correspondence between the landlord and the tenant.

Through the testimony of all participants at the hearing, it is clear that at the time the tenant was moving out of the rental unit the landlord was undergoing changes in property managers and as a result the issuance of the tenant's security deposit refund was missed.

The tenant agreed to withdraw his claim for loss of food and the bike and for damages under the *Act* for the missing bedroom door.

Analysis

Section 38 requires a landlord to either return the security deposit or file an Application for Dispute Resolution within 15 days of the end of the tenancy and receipt of the tenant's forwarding address.

From the evidence the landlord had the forwarding address on September 1, 2007 and that pursuant to Section 38 (6) the landlord must pay the tenant double the amount of the security deposits.

As the tenant has been successful in his application I grant him recovery of the filing fee and costs to find the landlord.

Conclusion

I find that the tenant is entitled to monetary compensation pursuant to Section 67 and therefore grant a monetary order in the amount of **\$822.51** comprised of \$717.66 double the amount of the security deposit and interest held; \$54.85 title search costs; and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) 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: December 11, 2009.

Dispute Resolution Officer