



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord has applied for compensation for damages and unpaid rent and to keep the security deposit. The tenants have applied for the return of double the amount of the security deposit.

Issues(s) to be Decided

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

As well, it must be decided if the tenants are entitled to the return of double the amount of the security deposit, pursuant to Section 38 of the *Act*.

Background and Evidence

The tenancy began on April 1, 2005 as a fixed term tenancy that converted to a month to month tenancy on October 1, 2005 for a monthly rent due on the 1st of the month of \$1035.00 at the end of the tenancy. A security deposit of \$450.00 was paid on March 6, 2005.

The tenants testified that they moved out of the rental unit on July 1, 2009 and that their forwarding address was provided to the landlord's agents on July 2, 2009. The tenants also stated they contacted the property manager on July 14, 2009 requesting again their security deposit. The landlord informed them that he intended to keep the security deposit.

The landlord filed an Application for Dispute Resolution on August 28, 2009 to keep all or part of the security deposit.

Analysis

As the landlord failed to attend and present evidence to the hearing, I dismiss his application in its entirety, without leave to reapply. As the landlord was unsuccessful in his application I also dismiss his application to recover the filing fee for this hearing.

Section 38 of the Act states a landlord must return a security deposit and interest or file an Application for Dispute Resolution within 15 days of the end of the tenancy and receipt of the tenant's forwarding address. Failure to meet this requirement entitles the tenant to double the amount of the security deposit held.

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 **\$981.86** comprised of \$931.86 double the amount of the security deposit and interest held 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 16, 2009.

Dispute Resolution Officer