



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDS, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution for a monetary order for the return of double the amount of the security deposit.

The hearing was held by teleconference and was attended by the tenant. The landlord did not attend the hearing or submit any documentary evidence.

The tenant provided confirmation of service via registered mail including a print out confirming the landlord signed for the hearing package.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant submitted the following documents into evidence:

- A summary of events showing the tenant's requests to the landlord for his security deposit;
- A copy of the tenancy agreement signed by both parties on March 19, 2007 for a 1 year fixed term tenancy starting on March 20, 2007 converting to a month to month tenancy on April 1, 2008 for a monthly rent of \$850.00 due on the 1st of the month. A security deposit of \$425.00 was paid on March 20, 2007;
- Email correspondence between the parties dating between July 31, 2009 to October 14, 2009;
- A copy of a cheque to the tenant from the landlord dated September 27, 2009 for \$391.36 with the envelope that the tenant received the cheque in date stamped October 17, 2009; and
- A copy of the security deposit refund explanation that includes the amount of interest added (\$11.46) and deduction for stove cleaning (\$45.00) and a copy of the Residential Tenancy Branch Deposit Interest Calculator print out.

The testified that he and the landlord did a move out inspection on August 31, 2009 but that the landlord did not want to complete the Inspection Report form, rather the two parties agreed the landlord could keep an amount for cleaning the stove. The tenant stated that at that time he wrote down his forwarding address and gave to the landlord.

The tenant stated he continued to correspond with the landlord over several days to try and obtain the security deposit back. He noted that after he sent an email to the landlord on October 14, 2009 stating he would be applying for Dispute Resolution he received a cheque on October 22, 2009.

Analysis

Section 38 of the *Act* requires a landlord to return a security deposit to the tenant within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, less any mutually agreed upon deductions. I find that the tenancy ended and the landlord's receipt of the tenant's forwarding address was August 31, 2009.

Section 38 Subsection 6 states that if a landlord fails to comply with the return of the security deposit within the specified time frame or to file an application for Dispute Resolution to claim against the security deposit, the landlord must pay the tenant double the amount of the security deposit.

I find the tenant is entitled to \$850.00 plus interest held on the security deposit amount (\$11.46) plus recovery of the filing fee for this application for Dispute Resolution (\$50.00) less the agreed deduction for oven cleaning (\$45.00), for a total amount of \$866.46.

This amount must be adjusted by the amount the tenant has already received (\$391.46) from the landlord for a total owed to the tenant of \$475.00

Conclusion

I find that the tenant is entitled to monetary compensation pursuant to Section 67 and therefore I grant a monetary order in the amount of **\$475.00**.

This order must be served on the tenant 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: February 10, 2010.

Dispute Resolution Officer