



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (Act), regulation or tenancy agreement, an Order for the return of double the security deposit and to recover the cost of the filing fee.

Service of the hearing documents, by the tenant to the landlords, was done in accordance with section 89 of the Act, sent via registered mail to each landlord on October 22, 2009. Mail receipt numbers were provided in the tenants' documentary evidence. The landlords are deemed to be served the hearing documents on October 27, 2009, the fifth day after they were mailed as per section 90(a) of the Act.

The tenant appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the landlords, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed due to the landlords request that she ends the tenancy early?
- Is the tenant entitled to receive double the security deposit back?

Background and Evidence

This tenancy started on July 01, 2008. It was a fixed term tenancy for one year and reverted to a month to month tenancy at the end of the fixed term. The tenant paid a monthly rent of \$975.00 which was paid on the first of each month. The tenant paid a security deposit of \$500.00 on June 01, 2008. No move in or move out condition inspections were completed at the beginning or end of the tenancy.

The tenant testifies that she gave one months notice to end the tenancy at the end of August, 2009. Rent for September was paid on the first of the month. The tenant claims that the female landlord came to visit her on the first or second of September, 2009 to view the suite. The landlord later telephoned and asked the tenant if she could show the suite to prospective tenants and asked when the tenant intended to move out. The tenant informed her that she had purchased a new residence and could move out on September 20, 2009. The landlord told her she had new tenant who wanted to move in before the end of September and if she could take possession of the suite on or around September 20, 2009 she would refund the difference in rent to the tenant.

The tenant testifies that she moved out of the suite on September 20, 2009 and returned on September 21, 2009 to remove the last items and clean the suite. She arranged with the landlord to leave the keys and was told she would receive her security deposit and nine days rent refund in a few days.

The tenant claims the landlord did not refund her security deposit or the balance of rent and she gave the landlord her forwarding address in writing on September 25, 2009.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for

Residential Tenancy Branch
Ministry of Housing and Social Development

Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to s. 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

I find that the landlord did receive the tenants forwarding address in writing on September 25, 2009. As a result, the landlord had until October 10, 2009 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the tenants security deposit or make a claim to keep it. Consequently, pursuant to s. 38(6)(b) of the *Act*, the landlord must pay the tenant double the amount of her security deposit and accrued interest on the original amount to a total sum of **\$1,004.39**.

With regard to the tenants claim for money owed for nine days rent; I find that she had paid rent up to the end of September 2009 and the landlord requested her to move from the rental suite on or about September 20, 2009 as new tenants would be moving into the suite. The landlords have not appeared at today's hearing to provide any evidence to contradict the tenants' evidence. Consequently I find in favor of the tenants claim that she had an agreement with the landlord that the remainder of September, 2009 rent would be refunded to the tenant. As the tenant handed back the keys of the rental suite on September 21, 2009 I find she is entitled to recover nine days of rent from the landlord to an amount of **\$292.50** pursuant to section 67 of the *Act*.

I also find as the tenant has been successful with her claim that she is entitled to recover the \$50.00 filing fee paid for her application from the landlords pursuant to section 72(1) of the *Act*.

A Monetary Order has been issued for the following amount:

Double security deposit	\$1,000.00
Nine days rent refund	\$292.50
Filing fee	\$50.00
Total amount owed to the tenant	\$1,346.89



Dispute Resolution Services

Page: 4

Residential Tenancy Branch
Ministry of Housing and Social Development

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,346.89**. The order must be served on the respondent and is enforceable through the Provincial Court 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 16, 2010.

Dispute Resolution Officer