

DECISION

Dispute Codes MNSD

Introduction

This is an application by the Tenant for a monetary order for return of double the security deposit under section 38 of the Act.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

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 Tenant paid a security deposit of \$325.00 on or about August 11, 2009. The Tenant vacated the premises on November 1, 2009.

On October 10, 2009, the Tenant 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.

The Landlord did not perform incoming or outgoing inspection reports. The Landlord claimed the Tenant owed money for hydro and rent, however, the Landlord did not file a claim for these amounts.

Analysis

There was no evidence to show that the Tenant 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.

Having failed to perform incoming or outgoing condition inspection reports, the Landlord has extinguished any right to claim against the security deposit.

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 under the Act.

As the Landlord did not know about various requirements of the Act, I am enclosing a copy of a guidebook for future reference.

Having made the above findings, I must Order, pursuant to section 38 and 67 of the Act, that the Landlord pay the Tenant the sum of **\$650.00**, comprised of double the security deposit.

The Tenant is 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: March 08, 2010.

Dispute Resolution Officer