

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application by the Tenants for a monetary order for return of double the security deposit and pet damage deposit, and to recover the filing fee for the claim.

The Tenants served the Landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on December 11, 2009 and deemed received under the Act five days later. I find the Landlord has been served in accordance with the Act.

One of the Tenants appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

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 Tenants paid a security deposit of \$397.50 on March 25, 2009, and a pet damage deposit of \$300.00 on April 16, 2009. The Tenants vacated the premises on May 15, 2009, and on that day the Tenants provided the Landlord with a written notice of the forwarding address to return the security deposit to. The Tenants did not sign over a portion of the security deposit.

Analysis

There was no evidence to show that the Tenants had agreed, in writing, that the Landlord could retain any portion of the security deposit or pet damage deposit.

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 Tenants, to retain a portion of the security deposit, plus interest.

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 pet damage deposit.

Having made the above findings, I must Order, pursuant to section 38 and 67 of the Act, that the Landlord pay the Tenants the sum of **\$1,445.00**, comprised of double the pet damage deposit and security deposit (2 x \$697.50) and the \$50.00 fee for filing this Application.

The Tenants are 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: May 03, 2010.

Dispute Resolution Officer