

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution for a monetary order.

The hearing was conducted via teleconference and was attended by the tenant and the landlord's agent

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for all or part 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 tenancy began in October 2006 as a month to month tenancy for a monthly rent at the end of the tenancy of \$810.81 due on the 1st of the month with a security deposit of \$362.50 paid in September 2006. The tenancy ended on November 30, 2009.

The tenant submitted that a move out condition inspection report was completed on November 30, 2009 and that she provided her forwarding address on the condition inspection report at that time. The tenant testified that she received her security deposit from the landlord in January 2010 and the cheque was dated December 24, 2009.

The landlord's agent did not dispute these points and provided no explanation as to why the return of the security deposit occurred later than 15 days after receipt of the tenant's forwarding address and the end of the tenancy.

Analysis

As per Section 38 of the Act, a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address in writing, return the security deposit to the tenant with interest or file an Application for Dispute Resolution to claim against the security deposit.

This section goes on to say that should the landlord fail to comply with the above noted required the landlord must pay the tenant double the security deposit, as such, I find the tenant is entitled to double security deposit.

Conclusion

I find that the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$798.06** comprised of \$748.06 for double the amount of the security deposit and interest and the \$50.00 fee paid by the tenant for this application.

I order the tenant may deduct the security deposit and interest already returned to her in the amount of \$373.38 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$424.68**. 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: May 07, 2010.

Dispute Resolution Officer