

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenant for an order for the return of double his security deposit. Both parties participated in the conference call hearing.

Issue to be Decided

Is the tenant entitled to the return of double his security deposit?

Background and Evidence

The undisputed facts before me are as follows. The tenancy began in May 2006 and ended on December 31, 2009. At the outset of the tenancy the landlord collected a security deposit of \$825.00. On January 2, the tenant gave the landlord his forwarding address in writing and requested the return of the security deposit.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$825.00 and is obligated under section 38 to return this amount together with the \$27.83 in interest which has accrued to the date of this judgment. The amount that is doubled is the base amount of the deposit. The tenant is also entitled to recover the filing fee paid to bring this application.

I note that the landlord submitted evidence of damage to the rental unit. As the landlord did not submit an application for dispute resolution to claim against the tenant, I cannot consider this evidence. Evidence of damage is not an effective defence to a claim made under section 38 of the Act.

Conclusion

I grant the tenant an order under section 67 for \$1,727.83, which sum includes the double security deposit, interest and the \$50.00 filing fee paid to bring this application. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: May 20, 2010
