



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD & FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request to retain the full security deposit, and a request that the respondent bear the \$50.00 cost of the filing fee which was paid for the application for dispute resolution.

Decision and reasons

Section 38 of the Residential Tenancy Act states:

Return of security deposit and pet damage deposit

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

Residential Tenancy Branch
Ministry of Housing and Social Development

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
 - (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.
- (6) If a landlord does not comply with subsection (1), the landlord
- (a) may not make a claim against the security deposit or any pet damage deposit, and
 - (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

In this case the tenancy ended on March 3, 2010, and the tenants provided their forwarding address in writing to the landlords agent on the same date. Therefore any application to keep the security deposit had to be filed by March 18, 2010.

The application to keep the security deposit for damages was not filed until March 26, 2010, which is well past the 15 day time limit.

Therefore since the landlords no longer had the right to claim against the security deposit for damages this application is dismissed in full without leave to reapply and I have issued an order for the landlords to pay double the security deposit plus interest to the tenants.

The tenants paid a security deposit of \$525.00 and therefore the landlords must pay \$1050.00 plus interest of \$11.22, for a total of \$1061.22.

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: July 21, 2010.

Dispute Resolution Officer