

DECISION

Dispute Codes

MNSD, FF

Introduction

This matter dealt with an application by the tenants for the return of double their security deposit and to recover the filing fee paid for their application.

Service of the hearing documents, by the tenants to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on March 30, 2010. Mail receipt numbers were provided in the tenant's documentary evidence. The landlord was deemed to be served the hearing documents on April 04, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

Both parties were provided the opportunity to present evidence and make submissions. As the landlord did not appear the submissions were made by the tenants. On the basis of the evidence presented at the hearing, a decision has been reached.

Issues(s) to be Decided

- Are the tenants entitled to recover double their security deposit?

Background and Evidence

This tenancy started on August 01, 2005 and ended on February 28, 2010. This started as a fixed term tenancy which reverted to a month to month tenancy at the end of the fixed term. The tenants paid a monthly rent of \$675.00 plus \$20.00 for parking. A security deposit of \$290.00 was paid to the landlord on August 01, 2005.

The tenants testify that they gave the landlord one month's written notice to end tenancy on January 27, 2010. This notice also included their forwarding address. The tenants also gave the landlord their forwarding address on the move out condition inspection on February 28, 2010. The tenants have provided a copy of this report in their documentary evidence.

The tenant's testify that they agreed the landlord could keep a sum from the security deposit up to \$125.00 for carpet cleaning. The tenants claim the landlord sent them a cheque dated March 26, 2010 for the sum of \$225.00. The tenants assume the landlords' costs for carpet cleaning of \$50.00 was deducted from their total amount of security deposit and this was the remainder after the deductions. The tenants state they have not yet cashed this cheque and were waiting for the outcome of this hearing.

The tenants seek double the return of their deposit as the landlord did not return it within 15 days of receiving their forwarding address in writing and the end of the tenancy.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6) of the *Act*, the landlord must pay double the amount of the security deposit (plus any interest accrued on the original amount) to the tenant.

I find that the landlord did receive the tenants forwarding address in writing on January 27, 2010 and February 28, 2010 and the tenancy ended on February 28, 2010. As a result, the landlord had until March 15, 2010 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the tenants security deposit less the agreed upon deductions until March 26, 2010 consequently, pursuant to section 38(6)(b) of the *Act*, the landlord must pay the tenants double the amount of their security deposit. The tenant is entitled to a Monetary Order as follows:

Double the security deposit	\$580.00
Less amount deducted for carpet cleaning	(-\$50.00)
Filing fee	\$50.00
Less amount already returned to the tenants	(-\$225.00)

Total amount due to the tenants	\$365.27
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The tenants had miscalculated the amount for the carpet cleaning and their application has been amended accordingly.

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$365.27**. The order must be served on the landlord and is enforceable through the Provincial Court 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: July 23, 2010.

Dispute Resolution Officer