



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

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.

Issue(s) 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 on July 1, 2006 and ended on April 30, 2010. At the outset of the tenancy the landlord collected a security deposit of \$1,100.00. In the last week of the tenancy, the tenant gave the landlord his forwarding address in writing.

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 received the tenant's forwarding address in the last week of April and 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 \$1,100.00 and is obligated under section 38 to return this amount together with the \$36.14 in interest which has accrued to the date of this judgment. The amount that is doubled is the base amount of the deposit.

I note that the landlord submitted that he had waived the rent for the last month of the tenancy and that this sum should be applied to the tenant's claim. The parties agreed that the landlord had issued a 2 month notice to end tenancy under section 49 of the Act. Section 51 of the Act entitles the tenant to receive one month of free rent. As the rent-free month was given to fulfill a statutory obligation, it cannot be applied to this award.

Conclusion

I grant the tenant an order under section 67 for \$2,286.14, 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: October 18, 2010

Dispute Resolution Officer