



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and pet deposit.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on August 28, 2010. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of his security deposit?

Background and Evidence

This tenancy started on May 1, 2007, as a 1 year fixed term tenancy and then continued as a month to month tenancy. The tenancy ended in December, 2008. Rent was \$850.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$425.00 in May, 2007 and a pet deposit of \$425.00 in May, 2007.

The Tenant said he moved out of the unit in December, 2008. The Tenant continued to say a move out inspection report was done and no damage was indicated on the report and he was to receive his full security deposit of \$425.00 and his full pet deposits of \$425.00. The Tenant said that he had given the Landlord his forwarding address in writing in January, 2009. He was not sure of the exact date, but it was before the end of January, 2009. The Tenant said the Landlord has not returned his security deposit or his pet deposit for this tenancy.

The Tenant continue to say that he had another tenancy with the Landlord from March, 2009 to May 2009 and he paid an additional security deposit and pet deposit which has not been returned from that tenancy. The Tenant said that tenancy application is in application number 760309.

The Tenants said he wants to apply for double the return of a security deposit and pet deposit as the Landlord has not complied with the s. 38 of the *Residential Tenancy Act*.

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The Landlord has not made an application to the Residential Tenancy Branch and they did not attend the hearing on November 16, 2010.

Analysis

Section 38 (1) says that 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:

- (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.

And Section 38 (6) says 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.

I find from the Tenant's testimony he did give the Landlord a forwarding address in writing in January, 2009. As well the Tenant said the Landlord and Tenant completed a move out inspection report and no damage was indicated on it so the Tenant was told he would receive his full deposits. The Landlord did not return the security deposit or the pet deposit to the Tenant within 15 days of the end of the tenancy or after receiving



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a forwarding address in writing from the Tenant, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and grant an order for double the security deposit of ($\$425.00 \times 2 = \850.00) and double the pet deposit of ($\$425.00 \times 2 = \850.00) in the amount of \$1,700.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 of the Act, I grant a Monetary Order for \$1,700.00 to the Tenant. The order must be served on the respondent and is enforceable through the Provincial Court (Small Claims 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*.
