Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes   MNSD, MNDC, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant and the landlord.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act).*

Background and Evidence

The tenancy began on March 23, 2010 for a 4 month fixed term tenancy for a monthly rent of $715.00 due on the 1st of each month, a security deposit of $350.00 was paid. The tenancy ended when the tenant vacated the rental unit on May 30, 2010.

The tenant testified that despite the fixed term the landlord had allowed more people to live in the rental unit than he anticipated and he vacated the rental unit after the landlord would only reduce the rent by $10.00 based on the tenant's concerns.

The tenant submitted emails showing he provided the landlord with his forwarding address on May 30, 2010

The landlord indicated that a move in and move out inspection had been completed but that she had not returned the tenant's security deposit because he owed for rent by not staying until the end of the fixed term. The landlord confirmed that she did not file an Application for Dispute Resolution.

Analysis

Section 38(1) states that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, return the security deposit less any mutually

agreed upon deductions or file an Application for Dispute Resolution to claim against the security deposit.

Section 38(6) states that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the amount of the security deposit.

As the landlord has not returned the security deposit or filed an Application for Dispute Resolution I find the landlord has not complied with Section 38(1).

Conclusion

I find that the tenant is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **$750.00** comprised of $700.00 for double the security deposit and the $50.00 fee paid by the tenant for this application.

This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced 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: November 22, 2010.

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Dispute Resolution Officer