



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 tenants for an order for the return of double their security deposit. The tenants presented evidence showing that they served the landlord with the application for dispute resolution and notice of hearing via registered mail on August 4. The tenants' evidence shows that the landlord refused delivery of the item. I found that the landlord was properly served with application for dispute resolution and notice of hearing and the hearing proceeded.

Issue to be Decided

Are the tenants entitled to the return of double their security and pet deposits?

Background and Evidence

The undisputed facts before me are as follows. The tenancy began on or about April 1, 2009 and ended on November 30, 2009. At the outset of the tenancy the landlord collected a \$825.00 security deposit and an \$825.00 pet deposit. On April 6, 2010 the tenants gave the landlord their forwarding address in writing via an email to which the landlord responded.

Analysis

Section 38(1) of the Act provides that the landlord must return the security and pet deposits 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. Although the Act does not list email as a valid means of serving documents, in this case the landlord responded to the tenants' email and I am satisfied that the address was sufficiently

served. I find that the landlord received the tenants' forwarding address on April 6, 2010. I find that the landlord failed to repay the security and pet deposits or make an application for dispute resolution within 15 days of receiving the forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenants double the amount of the security and pet deposits.

The landlord currently holds a security deposit of \$825.00 and a pet deposit of \$825.00 and is obligated under section 38 to return this amount together with the \$18.60 in interest which has accrued to the date of this judgment. The amount that is doubled is the base amount of the deposit.

The tenants paid a \$100.00 filing fee and seek to recover this fee. When the tenants made their claim, they made a typographical error and listed \$16,050.00 as the amount claimed. The fee for filing claims up to \$5,000.00 is \$50.00 whereas the fee for claims in excess of \$5,000.00 is \$100.00. I find that the tenants are entitled to recover \$50.00 which is the fee they would have paid had the error not been made.

Conclusion

I grant the tenants an order under section 67 for \$3,368.60, 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: December 30, 2010

Residential Tenancy Branch