



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, FF

Introduction

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

The hearing was conducted via teleconference and was attended by the tenants only. The landlord did not attend.

The tenants provided confirmation that the landlord was served with notice of this hearing by registered mail on September 16, 2010. I accept the landlord was served in accordance with the *Residential Tenancy Act (Act)* and sufficiently for this hearing.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for all or part of the security deposit and compensation for loss under the *Act*, regulation or tenancy agreement 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 *Act*.

Background and Evidence

The tenants testified that the tenancy began on July 1, 2009 as a month to month tenancy for a monthly rent of \$650.00 due on the 1st of the month and that a security deposit of \$325.00 was paid.

The tenants further stated that the tenancy ended on October 31, 2009 after they had provided notice to end the tenancy to the landlord on September 30, 2009. They also testified that they provided the landlord with their forwarding address three times; twice by registered mail and once by leaving it in the secured mailbox on the residential property that is normally used to communicate with the property manager in the first week of November of 2009.

Analysis

Section 38(1) of the *Act* requires a landlord to, within 15 days of the end of the tenancy and receipt of the tenants' forwarding address, return the security deposit less any

mutually agreed upon amounts 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's double the amount of the security deposit. I find the landlord has failed to comply with Section 38(1).

I also find that as the tenants received no response from the landlord after leaving their forwarding address in the secured mail box and that they subsequently sent their forwarding address by registered mail to the landlord that they suffered a financial loss and must be compensated by the landlord to cover the costs of \$19.20 for two registered mail attempts.

Conclusion

I find that the tenants are entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$719.20** comprised of \$650.00 double the amount of the security deposit and the \$50.00 fee paid by the tenants 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: January 19, 2011.

Residential Tenancy Branch