



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: MND, MNSD, FF

Introduction

This hearing was convened upon the joint applications of the tenant and the landlord:

The tenants' application filed October 20, 2010 seeks:

1. A monetary order for the return of their security and pet damage deposits.

All parties appeared at the hearing and gave evidence under oath.

Background Summary

The evidence is that this tenancy ended September 30, 2010. At the start of the tenancy the tenants paid a security deposit of \$950.00. The landlord acknowledges receiving the tenant's forwarding address at 4 p.m. on September 30, 2010. The evidence of both parties is that on October 13, 2010 the landlord returned to the tenants only part of their security deposit in the sum of \$293.52.

Findings

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord **must** pay the tenant double the amount of the deposit (section 38(6)).

The evidence shows that the tenants paid a security deposit and pet deposit totaling \$950.00 on or about November 30, 2008. The evidence shows that the tenants supplied their forwarding address to the landlord and the landlord received that address on September 30, 2010. On or about October 13, 2010 the landlord returned the sum of \$293.50 to the tenants although the tenants did not agree to any deductions from their deposits.

I find that the landlord did not comply with Section 38 and he must pay the tenants double the deposit. The original deposit totaled \$950.00 and doubling the entire deposit



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would now result in a monetary Order being made in favour of the tenants in the sum of \$1,900.00. However, the evidence is that the tenants have received a cheque from the landlord in the sum of \$293.50. As the landlord did return part of the deposit I will double only the balance that the landlord did not return: $\$950.00 - \$293.52 = \$656.48 \times 2 = \$1,312.96$.

As the tenants have been successful in this claim I will also award them recovery of the \$50.00 filing fee for a total monetary award in favour of the tenants in the sum of \$1,362.96.