



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, FF

Introduction

This conference call hearing was convened in response to the tenant's application for a monetary order for double the amount of the security deposit and to recover the filing fees associated with this application.

Both parties attended the hearing and provided affirmed testimony. Part of their evidence confirmed reciprocal service of the notices and of the material intended to be produced in these proceedings as required by statute.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order, and for what amount?

Background and Evidence

The rental unit consists of three bedroom condominium located in Pemberton.

The fixed term tenancy was based on a 6 month lease, starting on December 2nd, 2009 and ending on May 30th, 2010 at a rate of \$1375.00 payable on the first of each month. The tenants paid a security deposit in the amount of \$1375.00, which is double the amount allowed by statute. Inspection condition reports were not completed at the start or the end of the tenancy.

The tenants testified that they left the rental unit on the date the tenancy ended, and that they gave the landlord their forwarding address in writing in an e-mail dated May 25th, 2010. The tenants stated that their security deposit has not been returned to date.

Analysis

Section 38(1) of the *Residential Tenancy Act* states:

- “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.”

Section 38(6) of the *Residential Tenancy Act* provides in part that if a landlord does not comply with his statutory obligation to return the security deposit within 15 days, the landlord must pay the tenant double the amount of the deposit. Accordingly, the tenants in this matter are entitled to double the return of their security deposit.

Notwithstanding, Section 60(1) of the Act provides also for the landlord to make his own application for dispute resolution over matters related to the tenancy within two years after the tenancy ends. The landlord can submit his evidence at that time.

Conclusion

Pursuant to Section 67 of the Act, I grant the tenants a monetary order for the sum of \$2750.00.



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Since they were successful, I also award the tenants recovery of the \$50.00 filing fee for a claim totalling \$2800.00.

This Order may be registered in the Small Claims Court 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 05, 2011.

Residential Tenancy Branch