

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit and the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on January 01, 2010 for a fixed term of one year. The tenant moved out on July 31, 2010. Prior to moving in the tenant paid a security deposit plus pet deposit of \$1,350.00. The landlord agreed that he received the forwarding address of the tenant on August 25, 2010. By October 19, 2010, the tenant had not received the security deposit and pet deposit and therefore applied for dispute resolution.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit 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.

Based on the sworn testimony of both parties, I find that the landlord was notified of the tenant's forwarding address on August 25, 2010. I further find that the landlord failed to repay the security deposit and pet deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address.

Therefore, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the deposits.

The landlord currently holds a security deposit plus pet deposit of \$1,350.00 and is obligated under section 38 to return double this amount of the deposit. Since the tenant has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. Overall the tenant has established a claim of \$2,750.00.

Conclusion

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$2,750.00** which represents double the amounts of the security deposit and pet deposit plus \$50.00 for the filing fee. This order may be filed 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: February 18, 2011.

Residential Tenancy Branch