

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenant for an order for the return of double his security deposit. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the tenant entitled to the return of double his security deposit?

Background and Evidence

The undisputed facts before me are as follows. The tenancy began in February 2007 and ended in July 2010. At the outset of the tenancy the landlord collected a security deposit of \$275.00. On or about September 3, 2010, the tenant gave the landlord his forwarding address in writing.

The landlord's agent acknowledged that the security deposit had not been returned but stated that she considered it a damage deposit rather than a security deposit and that the rental unit had sustained damage during the tenancy.

Analysis

The Residential Tenancy Act recognizes only one type of deposit, a security deposit. The Act provides specific direction on how the security deposit must be dealt with at the end of the tenancy. The Act does not permit the landlord to retain the deposit without the consent of the tenant or an order from the Residential Tenancy Branch.

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. I find the landlord received the tenant's forwarding address on September 3, 2010 and I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$275.00 and is obligated under section 38 to return this amount together with the \$7.95 in interest which has accrued to the date of this judgment. The amount that is doubled is the base amount of the deposit.

I find that the tenant is also entitled to recover the \$50.00 filing fee paid to bring this application.

Conclusion

I grant the tenant an order under section 67 for \$607.95, which sum includes the double security deposit, interest and the \$50.00 filing fee. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: February 25, 2011

Residential Tenancy Branch