

DECISION

Dispute Codes MNSD

Introduction

This is an application by the Tenant for the return of double the security deposit. Both parties attended the hearing by conference call and gave affirmed testimony.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order for the return of double the security deposit?

Background and Evidence

Both parties attended the hearing by conference call. The Tenant states that she served the Landlord with the hearing package on October 27, 2010 by registered mail. The Landlord confirms receiving the package. The Tenant did not file any evidence, but the Landlord has filed an evidence package on February 18, 2011 and served the Tenant with a copy on February 19, 2011 by registered mail. The Tenant confirms receiving the package.

This Tenancy began on September 1, 2009 on a fixed term tenancy for 12 months ending on August 31, 2010. The Tenant states that the Tenancy ended on August 31, 2010, but the Landlord disputes this stating that the condition inspection report was conducted at 1pm on September 1, 2010. The Tenant states that she verbally informed the Landlord of her forwarding address on September 1, 2010. The Landlord confirms this by stating that he requested it and wrote it down on the back of an envelope on this date. Both parties agree that the monthly rent was \$1,800.00 payable on the 1st of each month and that the Tenant paid a security deposit of \$900.00 on August 12, 2009.

The Tenant states that she made two attempts by telephoning the Landlord for the return of her security deposit after the end of the tenancy. The Landlord states that he was in dispute of the return of the security deposit because of his claims of damage to the rental unit. The Landlord has not filed an application for dispute resolution regarding the return of the security deposit or for damage.

The Tenant states that upon review of the Landlord's evidence that she concedes the cost of the COIT receipt for carpet cleaning of \$159.60.

Analysis

Based upon the above facts, I am satisfied that the Landlord was properly served with the notice of hearing package. I am also satisfied that the Tenant was served with the Landlord's evidence package.

Return of security deposit and pet damage deposit

38 (1) 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.

Based upon the affirmed testimony of both parties, I find that the tenancy ended on September 1, 2010 and that the forwarding address was received by the Landlord on the same day. The Landlord has not repaid the security deposit nor has he filed an application for dispute resolution claiming against the security deposit. I find that the Landlord is in breach of section 38 of the RTA. As such section 38 (6),

(6) If a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find that the Tenant has been successful in her claim for the return of double the security deposit of \$900.00. The Tenant has conceded the amount of \$159.60 for the COIT carpet cleaning expense incurred by the Landlord. $\$900.00 - \$159.60 = \$740.40$. As such, I grant the Tenant an order under section 67 for \$1,480.80 ($\740.40×2). This

order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant is granted a monetary order for \$1,480.80.

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 28, 2011.

Residential Tenancy Branch