



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This was an application by the tenant for a monetary order for the return of his security deposit including double the deposit amount. The hearing was conducted by conference call. The tenant and his named witness participated in the hearing. the landlord did not attend the hearing although she was served with the application for dispute resolution and Notice of hearing sent on September 29, 2010. The records submitted by the tenant show that the landlord received the registered mail on October 5, 2010.

Issue(s) to be Decided

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

Background and Evidence

The rental unit is suite in a house in Surrey. The tenancy began on April 1, 2010 on a month to month basis with rent in the amount of \$580.00 payable on the first day of each month. The tenant paid a security deposit of \$290.00 on April 1, 2010. There is no written tenancy agreement.

On or about July 9, 2010 the landlord gave the tenant a note requesting that he move out of the rental unit by August 31, 2010 so the landlord's son could move into the rental unit. The landlord gave the tenant a form of eviction notice, on July 10, 2010. The notice was not in the approved form. The tenant moved out of the rental unit on September 1, 2010. On September 1, 2010 he gave the landlord a letter requesting the return of his security deposit within 15 days. The landlord did not return the deposit. The tenant testified that the landlord told him she was keeping the deposit because she claimed that the tenant broke a light and a heater. The landlord's witness testified that he was present when the tenant moved out of the rental unit and it was left clean and in good condition. the tenant submitted photographs of the rental unit to show his cleaning efforts and the condition of the rental unit at the end of the tenancy.

Analysis and conclusion

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

I am satisfied that the tenants provided the landlord with his forwarding address in on September 1, 2010, and I am satisfied that the tenant served the landlord with documents notifying the landlord of this application as required by the *Act*.

The tenant's security deposit was not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the doubling provision of section 38(6) therefore applies. I grant the tenant's application and award him the sum of \$580.00. The tenant is entitled to recover the \$50.00 filing fee for this application for a total claim of \$630.00 and I grant the tenant a monetary order against the landlord in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that Court.

Dated: January 27, 2011.
