



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes

MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for the return of double the security deposit and to recover the filing fee.

The tenant served the landlord by registered mail. The landlord confirmed receipt of the hearing documents.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, and in written form, documentary form, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Are the tenants entitled to receive double the security deposit?

Background and Evidence

Both parties agree that this tenancy started on April 20, 2010. This was a fixed term tenancy which ended at the end of the fixed term of September 30, 2010. Rent for this unit was \$1,200.00 per month and was due on the first of each month. The tenants paid a security deposit of \$600.00 on April 20, 2010. The tenants also paid a pet deposit of \$600.00 on May 06, 2010 which was returned to the tenants on October 18, 2010.

The tenants testify that they gave the landlord their forwarding address in writing on August 13, 2010 by registered mail when they also gave Notice to end the tenancy. The tenants have

provided a copy of the letter and the registered mail receipt and tracking information. In this letter the tenants also request the landlord to return the security deposits. The female tenant states she did receive a cheque from the landlord on September 28, 2010 for \$40.00 and received a letter concerning the deductions made from the security deposit. The tenants testify that they did not authorise the landlord to make any deductions and disputes the landlords claim as to why she made the deductions. The tenants testify that they attended both a Move in and a Move out condition inspection with the landlord but she failed to provide them with a copy of the reports. The tenants claim when they moved in the gate at the property was not inspected but the lock was rusted. They state that now the landlord claims they have damaged the gate and lock and caused damage to the grass with their cars. The tenants testify that they thoroughly cleaned the rental unit at the end of the tenancy including having the carpets professionally cleaned. They have provided a copy of the receipt for this work.

The tenants seek to recover double their security deposit as it was not returned to them within 15 days of the landlord receiving their forwarding address in writing. The tenants also seek to recover their filing fee of \$50.00 paid for this application.

The landlord testifies that she returned \$40.00 from the security deposit and withheld the rest as the tenants caused some damage to the rental unit and property and had not cleaned the unit thoroughly. The landlord states the balance of \$40.00 was returned to the tenants with a letter outlining the deductions and quotes for repairs to the gate. The landlord testifies that the gate was in good repair at the start of the tenancy. She claims she notified the tenants that she wanted to get some quotes for the gate repair and would return the balance of their deposit after the quotes were obtained.

The landlord testifies that one of her daughters gave the tenants a copy of the Move in and Move out condition inspection reports but has presented no evidence to show this occurred.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for

Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on August 13, 2010 and the tenancy ended on September 30, 2010. As a result, the landlord had until October 15, 2010 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the security deposit within the 15 days and deducted \$560.00 from the deposit without the tenant's permission and without filing an application to keep all or part of the security deposit. Therefore, I find that the tenants have established a claim for the return of double the security deposit of **\$600.00** pursuant to section 38(6)(b) of the *Act*.

As the tenant did receive \$40.00 from the landlords, this sum will be deducted from the total amount due.

I also find the tenants are entitled to recover the **\$50.00** filing fee from the landlord pursuant to section 72(1) of the *Act*. I find the tenants are entitled to a Monetary Order as follows:

Double the security deposit	\$1,200.00
Filing fee	\$50.00
Total amount due to the tenants	\$1,210.00

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,210.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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: March 02, 2011.

Residential Tenancy Branch