

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 November 01, 2008 and ended on July 31, 2010. Prior to moving in the tenant paid a security deposit of \$525.00. The tenant stated that he provided the landlord with his forwarding address on October 28, 2010. On November 12, 2010 the tenant received a cheque for \$24.94 accompanied by a statement of deductions made off the security deposit. On December 01, 2010, the tenant applied for dispute resolution.

The tenant stated he agreed to only three deductions. These were \$44.15 for the hydro bill, \$25.00 for a water cooler and \$33.60 for a damaged door for a total of \$102.75. Therefore the landlord should have returned the balance of \$422.25 or applied for a monetary order allowing her to retain all or a portion of the security deposit. The landlord chose to retain most of the security deposit without the consent of the tenant and returned \$24.94 within 15 days of receiving the tenant's forwarding address. Therefore the landlord held back \$ 397.31 without the tenant's consent.

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 October 28, 2010. I further find that the landlord failed to repay the full amount of the security deposit or make an application for dispute resolution within 15 days of the end of tenancy and 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 security deposit.

After the deductions agreed upon by the tenant, the landlord holds a security deposit of \$397.31 and is obligated under section 38 to return double this amount along with the accrued interest of \$1.31. Since the tenant has proven his case, he is also entitled to the recovery of the filing fee of \$50.00.

Conclusion

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$845.93**, which represents double the base security deposit, the accrued interest and 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: April 18, 2011.

Residential Tenancy Branch