



Dispute Resolution Services

Page: 1

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 in person on November 19, 2010 with a copy of the Application and Notice of Hearing. I find that the landlords were properly served pursuant to s. 89 of the *Act* with notice of this hearing.

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

- Is the tenant entitled to receive double the security deposit?

Background and Evidence

Both parties agree that this tenancy started on August 15, 2009. This was a fixed term tenancy which reverted to a month to month tenancy at the end of the fixed term. Rent for this unit was \$1,195.00 plus \$30.00 for parking per month and was due on the first of each month. The tenant paid a security deposit of \$607.50 on July 11, 2009. The tenant moved from the rental unit on October 30, 2010.

The tenant testifies that he gave the landlord his forwarding address in writing on November 01, 2010 and has provided a copy of the letter in evidence. In this letter the tenant also requested

the landlords to return his security deposit. The tenant states he did receive a cheque from the landlords on November 18, 2010 for \$281.52. The cheque is dated November 12, 2010 and the reminder of the security deposit of \$325.98 has been withheld by the landlord. The tenant testifies that he did not authorise the landlords to make these deductions and disputes the landlords claim as to why they made the deductions. The tenant states he attended a move in and a move out condition inspection with the landlord but refused to sign the move out inspection report as he did not agree with the landlords findings. The tenant states he did not receive copies of these reports at the beginning or end of his tenancy.

The tenant seeks to recover double his security deposit as it was not returned to him within 15 days of the landlords receiving his forwarding address. The tenant also seeks to recover his filing fee of \$50.00 paid for this application.

The landlords testify that deductions were made from the tenants' security deposit as the tenant did not clean the unit at the end of the tenancy. The landlord testifies the tenant agreed to these charges when he moved out but the landlord acknowledges that the tenant did not put this in writing.

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 November 01, 2010. As a result, the landlord had until November 16, 2010 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did return \$281.52 of the security deposit within the allowable 15 days but did not file an application to keep the balance of the deposit of \$325.98.

Therefore, I find that the tenant has established a claim for the return of double the remainder of the security deposit to the sum of **\$651.96** pursuant to section 38(6)(b) of the *Act*.

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

Security deposit	\$607.50
Double the balance of security deposit	\$651.96
Plus Filing fee	\$50.00
Total amount due to the tenant	\$701.96

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 **\$701.96**. 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: April 11, 2011.

Residential Tenancy Branch