



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an application by the tenant for an order for the return of double his security deposit. Both parties participated in the conference call hearing.

Issue to be Decided

Is the tenant entitled to an order for the return of double his security deposit?

Background and Evidence

The undisputed facts before me are as follows. The tenancy began in August 2010 and ended on September 15, 2010. At the outset of the tenancy the landlord collected a security deposit of \$450.00. On December 2, 2010, the tenant gave the landlord his forwarding address in writing and requested the return of the security deposit.

The landlord testified that he did not return the security deposit because the tenant gave him inadequate notice that he was vacating the rental unit, having given notice on August 17 to end the tenancy on September 15. He further testified that he spoke with the tenant, advised him that his notice was inadequate and at that time obtained his verbal permission to apply the security deposit to rent for the last half of September. The tenant paid rent for the first half of September.

The tenant denied having given the landlord permission to apply the security deposit to rent for the last half of September.

Analysis

Section 38(4) of the Act requires the landlord to obtain consent in writing to retain a security deposit. In light of the tenant's denial that he gave the landlord permission to retain the deposit, I find that the landlord has not proven that he had permission to retain the deposit.

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. I find the landlord received the tenant's forwarding address on December 2 and I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenant double the amount of the security deposit.

Conclusion

I grant the tenant an order under section 67 for \$900.00. 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 28, 2011

Residential Tenancy Branch