



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by one of the tenants only. The landlord did not attend.

The tenant testified the landlord was served with notice of hearing documents and a copy of her Application via registered mail on August 23, 2011. The tenant further testified she received an email from Canada Post confirming the documents were received by the landlord on September 1, 2011. I accept the landlord has been served sufficiently with notice of this hearing.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the tenancy began on April 1, 2011 as a month to month tenancy for the monthly rent of \$1,650.00 due on the 1st of each month and a security deposit of \$825.00 was paid. The tenancy ended on July 31, 2011 after the landlord had issued a 2 Month Notice to End Tenancy for Landlord's Use.

The tenant testified that they provided their forwarding address in writing to the landlord's agent who attended the move out condition inspection on July 31, 2011. The tenant also noted that she later provided the landlord with a text message advising him that they had left the address with his agent. The tenant testified they have not yet received the security deposit.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address in writing, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Based on the undisputed tenant's testimony, I accept the tenancy ended on July 31, 2011 and that the landlord, through his agent, was provided with the tenants' forwarding address on July 31, 2011. As such, the landlord had until August 15, 2011 to return the security deposit or file an Application for Dispute Resolution.

I find, based on the tenant's undisputed testimony that the landlord failed to comply with Section 38(1) of the *Act* and the tenants are entitled to return of double the amount of the security deposit.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,700.00** comprised of \$1,650.00 double the amount of the security deposit and the \$50.00 fee paid by the tenants for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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: October 28, 2011.

Residential Tenancy Branch