



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 an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

1. Monetary order for return of pet damage or security deposit pursuant to Section 38; and
2. Recovery of the filing fee paid for this application pursuant to Section 67.

I accept that the landlord was properly deemed served with the Application for Dispute Resolution hearing package by way of registered mail.

The landlord did not attend. The tenant was given a full opportunity to be heard, to present evidence and to make submissions. On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

BACKGROUND AND EVIDENCE

The tenant testified that she paid a \$700.00 security deposit on June 1, 1995 to the previous owners of the rental property. The current landlords purchased the property in 2009.

The tenant testified that she gave written notice on May 24, 2011 advising the landlords that that she intended to vacate the rental unit at the end of June 2011. In the written notice the tenant provided her forwarding address however to date, her security deposit has not been returned to her.

FINDINGS

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit if the landlord believes there is cause.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the

deposit (section 38(6)). If the tenant does not supply his forwarding address in writing within a year, the landlord may retain the deposit.

I find that the landlord has not returned the security deposit within 15 days of receipt of the tenant's forwarding address. The tenant is therefore entitled to a monetary order in amounting to double the deposit with interest calculated on the original amount only.

Having been successful in this application, I find further that the tenant is entitled recover the \$50.00 filing fee paid for this application.

Total monetary award payable by the landlord to the tenant:

Security Deposit paid on June 1, 1995	\$700.00
Interest on original amount paid from date security deposit paid to date of this order	132.84
Filing Fees	50.00
TOTAL MONETARY AWARD	\$1582.84

The tenant is provided with an Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: October 24, 2011.

Residential Tenancy Branch