

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This conference call hearing was convened in response to the tenants' application for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; for the return of double the amount of the security deposit; and to recover the filing fees associated with this application.

The tenants participated in the hearing and provided affirmed testimony. Tenant D.F. testified that he served the Notice of a Dispute Resolution Hearing to the landlords by way of registered mail sent on August 19th, 2011, and provided a Canada Post tracking number. The landlords did not participate and the hearing proceeded in their absence.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Order, and for what amount?

Are the tenants entitled to the return of double the amount of the security deposit?

Are the tenants entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a condominium in a multi-unit complex. Pursuant to a written agreement, the fixed term tenancy started on July 1st, 2010 and was to end on July 2012. The rent is \$1500.00 per month payable on the first of each month. The tenants paid a combined security and pet damage deposits totalling \$1500.00.

In their documentary evidence, the tenants provided a copy of a Mutual Agreement to End Tenancy dated June 10th, 2011, stating that the tenancy would end on July 31st,

2011 at the landlords' request. D.F. testified that the landlords verbally agreed this but for some reason they did not sign the agreement. D.F. stated that the landlords were undergoing a matrimonial dispute and did not agree between themselves on the selling of the rental property. The tenants also provided a copy of their notice of forwarding address dated July 27th, 2011, which he stated that he served on the landlords on that date.

Analysis

I accept the tenants' undisputed testimony that they served the landlords with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the landlords knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 38(1) of the *Residential Tenancy 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 landlord received the tenant's forwarding address in writing.

Section 38(6) of the *Residential Tenancy Act* provides in part that if a landlord does not comply with his statutory obligation to return the security deposit within 15 days, the landlord must pay the tenant double the amount of the deposit.

In this matter the landlords received the tenants' forwarding address, but the security deposit was not returned and the landlords did not apply for dispute resolution as required by statute. Therefore the tenants are entitled to the return of double the amount of the security deposit.

Conclusion

The tenants established a claim of \$3000.00. Since they were successful, they are entitled to recover the \$50.00 filing fee and pursuant to Section 67 of the Act, I grant the tenants a monetary order for the sum of \$3050.00

This Order may be registered 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: November 21, 2011.

Residential Tenancy Branch