



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for return of the security deposit - Section 38
2. An Order to recover the filing fee for this application - Section 72.

I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Landlord did not participate in the conference call hearing.

The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began in November 2009 and ended on August 31, 2010. Rent in the amount of \$800.00 was payable in advance on the first day of each month. The Landlord collected a security deposit from the Tenant in the amount of \$400.00 near the end of the tenancy. The Tenant provided the Landlord his forwarding address at the end of the tenancy and the Landlord delivered mail to the Tenant’s at this new address during the month of November 2010. The Landlord did not return the security deposit to the Tenants and did not file an application for dispute resolution to claim against the

security deposit. The Tenant stated at the hearing that he was waiving the return of double the security deposit.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Landlord failed to make an application for dispute resolution claiming against the security deposit, and failed to return the security deposit within 15 days of receipt of the Tenant's forwarding address, I find that the Tenants are entitled to return of double the security deposit in the amount of \$800.00. Given that the Tenant has waived the return of this double security deposit amount, I find that the Tenant is entitled to a monetary order in the amount of **\$400.00**. The Tenants are also entitled to return of the **\$50.00** filing fee for a total entitlement of **\$450.00**.

Conclusion

I Grant the Tenant an Order under Section 67 of the Act for the amount of **\$450.00**. If necessary, 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: November 02, 2011.

Residential Tenancy Branch