



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' request for return of double the security deposit and pet deposits paid to the landlord. The tenants named two landlords in their application (referred to by initials HL and RC). Neither landlord appeared at the hearing.

The tenants provided a registered mail receipt dated October 1, 2011 as proof of service and testified that two hearing packages were put in one registered mail envelope and sent to the service address for HL. The address for service was the location of the landlord HL's other business; however, the tenants submitted that this was the only address provided to them by the landlords. The tenants submitted that they were never provided a copy of the written tenancy agreement despite their requests. The tenant testified that she tracked the registered mail tracking number and found that the mail was successfully delivered.

I was satisfied that the tenants mailed the registered mail package to landlord HL using the service address provided to them. Accordingly, I accept that HL was sufficiently served with notice of this hearing.

Since the tenants were required to serve each of the co-landlords separately I have amended the application to exclude the landlord RC who I determined was not served by the tenants. Accordingly, this decision and the Order that accompanies it name landlord HL only.

Issue(s) to be Decided

Are the tenants entitled to return of double the security deposit and pet deposits paid to the landlord?

Background and Evidence

The tenants paid a \$1,050.00 security deposit on August 20, 2011 for a tenancy set to commence August 26, 2010. The tenants had two dogs and on August 26, 2011 the landlord collected a \$1,050.00 pet deposit for each dog.

The parties conducted a move-out inspection together on August 27, 2011 and re-inspected the unit on August 28, 2011. The tenants signed a move-out inspection report with the landlord and gave the landlord their forwarding address in writing. The landlord did not provide the tenants a copy of the move-out inspection report. On August 28, 2011 parties discussed minor damage to a door. The parties agreed that the landlord would provide them with receipts or an estimate for the damage to the door but he has not done so. The tenants did not authorize in writing any deduction of a specific amount from their deposits.

On September 21, 2011 the tenant BP emailed the landlord to enquire about the "damage deposit" and asked if anything had been fixed. On September 22, 2011 the tenant CM emailed the landlord asking for the condition inspection report and estimates. On September 23, 2011 the landlord emailed CM back and stated that there is \$9,650 worth of damage to the rental unit. CM emails the landlord again on September 25, 2011 asking him for condition inspection report. BP emails the landlord on September 26, 2011 demanding a copy of the lease, the move-out inspection report, and receipts. BP reminded the landlord there was nothing noted on the move-out inspection report about damaged concrete flooring. BP also reminded the landlord that he required them to pay two pet deposits for two 4 pound dogs.

The tenants submitted that they were not provided a copy of a move-in inspection report and provided an email dated September 1, 2010 noting the move-in inspection was done when it was not light out and no light bulbs were in the bedrooms. The tenants asked the landlord if the previous tenants had a cat as the tenant observed stains on the flooring and cat food in some of the corners.

The tenants filed this application on September 28, 2011 seeking return of double the security deposit and pet deposits for a total claim of \$6,300.00.

Documents provided as evidence included the security deposit receipt and copies of the various email communication between the parties.

Analysis

If a landlord does not have written authorization to make deductions from the security deposit or pet deposit then, pursuant to section 38(1) of the Act, the landlord is required to either return the security deposit and pet deposit to the tenant or make an Application for Dispute Resolution claiming against the deposits within 15 days after the tenancy ended or the date the landlord receives the tenant's forwarding address in writing, whichever date is later. Where a landlord violates section 38(1) of the Act, the security deposit and pet deposit must be doubled and the landlord loses the right to claim against the deposits pursuant to section 38(6) of the Act. The landlord retains the right to make an Application for Dispute Resolution to claim for damages within two years of the tenancy ending.

Having considered the evidence before me, I find the landlord did not have written authorization to retain any part of the security deposit or pet deposit. I am satisfied the tenants provided a forwarding address on the move-out inspection report at the end of the tenancy. Since more than 15 days passed and the landlord did not return the deposits to the tenants or make an Application for Dispute Resolution the landlord violated the requirements of section 38(1) and now the deposits must be doubled under section 38(6) of the Act.

The tenants satisfied me that the landlord collected a total of \$3,150.00 from them in deposits during the month of August 2010 and I double this amount. Accordingly, the tenants' request for \$6,300.00 is granted. I further award the \$100.00 filing fee to the tenants.

The tenants are provided a Monetary Order in the total amount of \$6,400.00 to serve upon the landlord. The Monetary Order may be enforced in Provincial Court (Small Claims) an Order of that court.

Conclusion

The tenants were successful in this application and have been provided a Monetary Order in the amount of \$6,400.00 to serve upon the landlord and enforce as necessary.

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: December 23, 2011.

Residential Tenancy Branch