



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenants for a monetary order. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on October 19, the landlord did not participate in the conference call hearing.

Issue to be Decided

Are the tenants entitled to a monetary order as claimed?

Background and Evidence

The tenants' undisputed evidence is as follows. The tenancy began on March 1, 2010 and ended on August 31, 2011. The tenants gave their forwarding address in writing to the landlord twice, the first time when the landlord gave them a list of required cleaning near the end of the tenancy and the second time on the condition inspection report which was filled out on August 31, 2011. On October 19, the tenants filed for dispute resolution claiming double their security deposit. At the hearing the tenant M.S. testified that at the end of October, she received a cheque from the landlord in the amount of \$445.00. The tenants were able to successfully negotiate the cheque.

Analysis

Section 38(1) of the 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 forwarding address is received in writing. I find that the later date is the end of the tenancy on August 31, 2011 and that the landlord had until September 15, 2011 to either return the deposit or file an application for authorization to retain the deposit. I find that the landlord failed to do so and is therefore liable under section 38(6) which provides that the landlord must pay the tenants double the amount of the security deposit.

Although the deposit has been returned, the tenants are still entitled to receive \$445.00 in compensation and I award them that sum. As the tenants have been successful in their claim, I find that they should also recover the \$50.00 filing fee paid to bring their application and I award them \$50.00.

Conclusion

The tenants are awarded \$495.00. I grant them a monetary order under section 67 for this amount. 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: January 09, 2012

Residential Tenancy Branch