



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for the return of double the security deposit and to recover the filing fee.

Service of the hearing documents, by the tenant to the landlord and the landlord's agent, was done in accordance with section 89 of the *Act*, sent via registered mail on August 02, 2011. Mail receipt numbers were provided in the tenant's documentary evidence. The landlord and his agent were deemed to be served the hearing documents the fifth day after they were mailed as per section 90(a) of the *Act*.

The Public Guardian and Trustee (agent) for the tenant appeared, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord or the landlord's agent, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the tenant entitled to recover double the security deposit?

Background and Evidence

The agent for the tenant has provided copy of the tenancy agreement and confirms the following details: The tenancy started on March 01, 2008. This was a fixed term tenancy for

one year and the tenancy continued after this time on a month to month basis. Rent for this unit was \$1,200.00 per month and was due on the first of each month. The tenant paid a security deposit of \$600.00 on February 28, 2008. The tenancy ended on October 31, 2010.

The agent for the tenant states that they gave the landlord Notice to end tenancy on behalf of the tenant and provided their forwarding address as per their duties as Public Guardian and Trustee managing the tenants financial affairs. The agent for the tenant also states they requested the return of the security deposit. This letter was sent to the landlord on September 20, 2010 by e-mail and a copy was forwarded by registered mail to the landlord. The agent for the tenant provided the registered mail tracking number for this letter sent to the landlord.

The tenant seeks to recover their security deposit as it was not returned within 15 days of the landlords receiving the forwarding address. The tenant also seeks to recover the filing fee of \$50.00 paid for this application.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on September 20, 2010. As a result, the landlord had until, September 25, 2010 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the security deposit and there is no evidence to show the landlord has filed an application for Dispute Resolution

to keep the security deposit. Therefore, I find that the tenant has established a claim for the return of the security deposit and pursuant to section 38(6)(b) the tenant is entitled to have this deposit doubled to the sum of **\$1,200.00**. The tenant is also entitled to recover the accrued interest on the original amount of the deposit to the sum of **\$7.57**.

As the tenant has been successful in this matter I find the tenant is entitled to recover the **\$50.00** filing fee from the landlord pursuant to section 72(1) of the *Act*. The tenant is entitled to a Monetary Order as follows:

| | |
|--|-------------------|
| Double the security deposit | \$1,200.00 |
| Subtotal | \$1,207.57 |
| Plus filing fee | \$50.00 |
| Total amount due to the tenants | \$1,257.57 |

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,257.57**. The order must be served on the respondent and is enforceable through the Provincial Court 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