



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 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 paid for this application.

The tenant served the landlords agent in person on January 18, 2012 with a copy of the Application and Notice of Hearing. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

The tenant and the landlords agent appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, and in written form, documentary form, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

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

Background and Evidence

Both parties agree that this month to month tenancy started on November 15, 2009. Rent for this unit was \$985.00 per month and was due on the first of each month. The tenant paid a security deposit of \$500.00 on November 12, 2009. The tenant moved

from the rental unit on December 31, 2011 and gave the landlord her forwarding address on that date.

The tenant testifies that the landlord did not complete a move in or a move out condition inspection at the start or end of her tenancy. The tenant testifies that she did not authorise the landlord to make any deductions from her security deposit and testifies that the landlord has not returned her deposit within 15 days of the end of the tenancy.

The tenant seeks to recover double the security deposit. The tenant also seeks to recover the filing fee of \$50.00 paid for this application.

The landlord's agent testifies that as the landlord was out of the country he was appointed as the landlord's agent. The landlord's agent testifies that he inspected the property after the tenant moved out and found there were a lot of issues with the unit. The landlord's agent states he was aware that security deposits must be returned but was not aware that there was a time frame to do so. The landlord's agent testifies that if the tenant receives a Monetary Order the tenant can serve this order to the landlord's agent as he does not have an address for the landlord for service. The landlord's agent testifies that he will ensure any Orders are passed onto the landlord.

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, whichever is the later date, 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 December 31, 2011. As a result, the landlord had until January 15, 2012 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 has not filed an application for Dispute Resolution to keep the deposit. Therefore, I find that the tenant has established a claim for the return of double the security deposit to the sum of **\$1,000.00** pursuant to section 38(6)(b) of the *Act*.

I also 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 will receive a Monetary Order to the sum of **\$1,050.00**.

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 **\$1,050.00**. 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: February 07, 2012.

Residential Tenancy Branch