



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF, O

Introduction

The matter was set for a hearing at 11.00 a.m. on this date to hear the landlord's application. The hearing went ahead as scheduled the agent for the tenant dialed into the conference call. The telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the landlord called into the hearing during this time. Based on this I find that the landlord has failed to present the merits of his application and the application is dismissed without leave to reapply.

At the hearing the tenant's agent requested that the landlord return double the tenant's security deposit of \$650.00 which was paid to the previous landlord on September 01, 2007. The tenant's agent has provided documentary evidence showing the tenant gave the landlord their forwarding address in writing on December 21, 2011. The landlord has stated on his application that the tenant moved out on December 01, 2011. The tenant's agent states the landlord has acknowledged receipt of the tenants forwarding address as the landlord has used this address to correspond with the tenant.

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.

I am satisfied that the landlord did apply to keep the security deposit within 15 days of receiving the tenants forwarding address. However the landlord has failed to attend the hearing held today to deal with that issue and the landlord's application to keep all or part of the security deposit has been dismissed. As the landlords application has been dismissed for this reason the landlord is deemed not to have applied to keep the security deposit and consequently, I find the tenant's agent request for the return of double the security deposit is upheld pursuant to s. 38(6)(b) of the *Act*.

The tenant is therefore entitled to recover double the security deposit to the sum of \$1,300.00. The contract of purchase and sale addendum provided in evidence shows the security deposit was paid on September 01, 2007 and the accrued interest on the original security deposit has been calculated from that date to the sum of \$13.06.

Conclusion

The landlord's application is dismissed in its entirety without leave to reapply.

A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,313.06**. The order must be served on the landlord 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: March 07, 2012.

Residential Tenancy Branch

