



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in repose to the tenant's application for the return of double the security deposit and to recover the filing fee from the landlords for the cost of this application.

Service of the hearing documents, by the tenant to the landlords, was done in accordance with section 89 of the *Act*, sent via registered mail on March 01, 2012. Mail receipt numbers were provided in the tenant's documentary evidence. The landlords are deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlords, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the tenant entitled to recover double the security deposit?

Background and Evidence

The tenant testifies that this month to month tenancy started on December 15, 2008 and ended on February 28, 2011 after the tenant gave the landlords one month notice to end the tenancy. Rent for this unit was \$1,200.00 per month due on the first day of each month in advance. The tenant paid a security deposit of \$600.00 on December 06, 2008.

The tenant testifies that she and the landlords had agreed to complete the move out condition inspection together when the landlords returned from out of town. The tenant testifies that the landlords had arrived back a few days before the inspection was completed but failed to contact the tenant. The tenant testifies she contacted the landlords and arranged with them to do the move out inspection on April 20, 2011. The tenant testifies that when she arrived at the unit to do the inspection, the landlords refused to let the tenant take part in the inspection and made the tenant stand in the kitchen of the unit. The tenant testifies she did not agree with the landlords comments on the move out inspection report and the report reflects this.

The tenant testifies that she gave the landlords her forwarding address on the last page of the inspection report and has provided a copy of this report in evidence. The tenant testifies that the landlords have failed to return her security deposit and the tenant now seeks to recover double the deposit.

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 landlords did receive the tenants forwarding address in writing on April 20, 2011. As a result, the landlords had until May 05, 2011 to return the tenants security deposit and any accrued interest or apply for Dispute Resolution to make a claim against it. I find the landlords did not return the security deposit or interest and have 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 plus accrued interest on the original amount 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 landlords 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
Accrued Interest on the original amount	\$0.64
Filing fee	\$50.00
Total amount due to the tenant	\$1,250.64

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 **\$1,250.64**. The order must be served on the respondents 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 21, 2012.

Residential Tenancy Branch