



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This was an application by the tenants for the return of their security deposit including double the deposit amount. The hearing was conducted by conference call. The named tenant participated in the hearing. The landlord attended with his property manager.

Issue(s) to be Decided

Are the tenants entitled to the return of their security deposit including double the amount?

Background and Evidence

The rental unit is an apartment in Victoria. The tenancy began on October 1, 2010. Monthly rent was \$1,800.00 payable on first day of each month. The tenants paid a security deposit of \$900.00 at the beginning of the tenancy. Neither party submitted a copy of the tenancy agreement as evidence.

The tenants notified the landlord by that they intended to move out of the rental unit at the end of November, 2011. The tenants advised the landlord of their forwarding address by e-mail sent on November 16, 2011. The tenant said they arranged to meet the landlord for a move-out inspection, but he failed to attend. When the tenants moved out they did not return a remote control device used to operate the blinds in the rental unit. The tenants sent a second e-mail to the landlord stating their forwarding address on December 20, 2011. The landlord acknowledged receiving the address.

The landlord told the tenants they would not receive their security deposit until they returned the remote, but subsequently he replaced the remote with a new one. On February 29, 2012 the landlord sent the tenants a cheque in the amount of \$88.60, which represented the balance of the tenants' security deposit after deduction of amounts for cleaning, replacing the blind remote and for "Management Fees". The tenants did not consent to any of the deductions.

The landlord did not return the security deposit in full and he did not file an application for dispute resolution to claim the deposit.

Analysis and conclusion

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit.

I am satisfied that the tenants provided the landlord with their forwarding address in writing based on his acknowledgement, and I find that the tenants served the landlords with documents notifying the landlord of this application as required by the *Act*.

The tenants' security deposit was not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the landlord did not make a claim to keep the deposit. The doubling provision of section 38(6) therefore applies. I find that the tenants are entitled to an award in the amount of double the security deposit less the amount finally refunded. I grant the tenants' application and award them the sum of \$1,711.40, being double the amount of the security deposit held by the landlord after the 15 day period less the repayment made. The tenants are entitled to recover the \$50.00 filing fee for this application for a total claim of \$1,761.40 and I grant the tenants a monetary order against the landlords in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that Court.

As mentioned at the hearing the landlord is at liberty to submit his own application for dispute resolution to claim damages.

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: May 02, 2012.

Residential Tenancy Branch