



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 tenants' application for the return of double the security deposit and to recover the filing fee from the landlords for the cost of this application.

The tenants and one landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to give evidence. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord provided some late evidence to this office put failed to provide this evidence to the other party. The landlords' evidence has therefore not been considered at the hearing.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Order to recover double their security deposit from the landlord?

Background and Evidence

Both parties agree that this tenancy started on July 15, 2011. The tenancy agreement shows that this was a fixed term tenancy which was due to expire on March 31, 2012. The tenants gave notice to the landlord and moved from the rental unit on February 29,

2012. Rent for this unit was \$1,500.00 per month and was due on the first day of each month in advance. The tenants paid a security deposit of \$750.00 on July 01, 2011.

The tenants testify that the landlords, at first, said the tenants had not paid a security deposit however the tenants checked with their bank and were able to obtain a copy of the cheque paid as a security deposit and cashed by the landlords.

The tenants testify that they have not given the landlord written permission to keep all or part of their security deposit.

The tenants testify that they gave the landlords their forwarding address in writing on January 24, 2012 and the landlords failed to return the tenants security deposit. The tenants now seek to recover double the security deposit to the sum of \$1,500.00.

The landlord testifies that they did think, at first, that the tenants had paid a security deposit but later they found the tenants had paid the sum of \$750.00. The landlord testifies that the reason the security deposit was not returned was because the tenants moved from the rental unit before the end of the fixed term. The landlord testifies that they were not aware that they had to apply to keep the security 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 January 24, 2012. As a result, the landlords had until February 08, 2012 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlords did not return the security deposit and have not filed an application for Dispute Resolution to keep the deposit. Therefore, I find that the tenants have established a claim for the return of double the security deposit pursuant to section 38(6)(b) of the *Act*.

I further find the tenants are entitled to recover the **\$50.00** filing fee from the landlords pursuant to section 72(1) of the *Act*. The tenants are entitled to a Monetary Order as follows:

Double the security deposit	\$1,500.00
Filing fee	\$50.00
Total amount due to the tenant	\$1,550.00

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 **\$1,550.00**. 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: June 11, 2012.

Residential Tenancy Branch