



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF, O

Introduction

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

The tenant and landlords attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlords and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Preliminary Issues

The parties agree that there are two landlords and both landlords were served with the tenant's application and Notice of hearing. The parties do not object to the inclusion of the second landlord on the decision and any Orders issued and did not raise any objections to the correction in the spelling of the landlords' last name.

Issue(s) to be Decided

Is the tenant entitled to recover his security deposit?

Background and Evidence

The parties agree that this tenancy started on March 01, 2010. The tenant testifies that the tenancy ended on either April 2nd or April 3rd. The landlord testifies that the tenant did not move out until April 07, 2012. Rent for this unit was \$1,200.00 per month and was due on the first day of each month. The tenant paid a security deposit of \$600.00 on February 16, 2010.

The parties agree that the landlords did not complete a move in condition inspection report of the unit at the start of the tenancy. The parties also agree that the landlord received the tenants forwarding address in writing on June 16, 2012.

The tenant testifies that the landlords have failed to return the security deposit within 15 days of receiving the tenants forwarding address and the tenant now seeks to amend his application to recover double his security deposit.

The landlords testify that they are new landlords and were not aware that they had to complete a move in condition report at the start of the tenancy and the tenant did not attend a walkthrough of the property at the end of the tenancy. The landlords' testify that the tenant's security deposit was retained due to additional expenses incurred by the landlord at the end of the tenancy.

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 June 16, 2012. As a result, the landlord had until July 01, 2012 to return the tenants security deposit of \$600.00. I find the landlords did not return the security deposit and I also find the landlords have extinguished their right to file a claim against the deposit as the landlords failed to complete either a move in condition inspection of the property with the tenant in accordance with s. 24(2) of the *Act*. Therefore, I find that the tenant has established a claim for the return of double the security deposit to the sum of **\$1,200.00** 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 landlords pursuant to section 72(1) of the *Act*. The tenant is entitled to a Monetary Order for the sum of **\$1,250.00**

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 **\$1,250.00**. 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: July 27, 2012.

Residential Tenancy Branch