



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenants only.

The tenants testified the landlords were served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on August 3, 2012 in accordance with Section 89. The tenants provided documentary evidence of the tracking information for this registered mail.

As per Section 90, the documents are deemed received by the landlords on the 5th day after it was mailed. Based on the testimony of the tenants, I find that the landlords have been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for double the amount of the security and pet damage deposits, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenants provided a copy of a tenancy agreement signed by the parties on July 10, 2011 for a month to month tenancy beginning on July 4, 2011 with a monthly rent of \$700.00 due on the 1st of each month with a security deposit of \$350.00 paid on July 8, 2011 and a pet damage deposit of \$300.00 paid on July 4, 2011.

The tenants also provided copies of letters dated May 9, 2012 written to both the landlord and his agent providing their forwarding address. The tenants testified they have not received either deposit back to date.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit

or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Based on the undisputed testimony from the tenants and in the absence of any record that the landlords have submitted an Application for Dispute Resolution seeking to claim against the deposits, I accept the landlords have failed to comply with the requirements under Section 38(1).

Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,300.00** comprised of \$700.00 double the security deposit and \$600.00 double the pet damage deposit.

This order must be served on the landlord. If the landlord fails to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be enforced 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: August 29, 2012.

Residential Tenancy Branch