



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 tenant's Application for Dispute Resolution seeking a monetary order.

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

The tenants testified the landlord was 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 June 29, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the landlord on the 5th day after it was mailed.

Based on the testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of the security deposit, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenants submitted into evidence a copy of their tenancy agreement stipulating the tenancy began on November 1, 2010 as a 1 year fixed term tenancy that converted to a month to month tenancy on October 31, 2011 for a monthly rent of \$2,200.00 due on the 1st of each month with a security deposit of \$1,100.00 paid. The tenants testified the rent had been reduced to \$2,000.00.

The tenants testified the tenancy ended on May 30, 2012 which was the date they returned the keys to the landlord and provided her with their forwarding address in writing. The tenants provided a photograph of the address on the kitchen counter.

The tenants testified the landlord did provide them with a cheque in the amount of \$820.00 dated June 24, 2012 with a letter stating that she was charging them \$350.00 but did not explain why. The letter went on to explain that the landlord was including an

additional \$70.00 to cover hydro that she owed to the tenants, as per the tenancy agreement.

The tenants explained in their testimony that they should have received \$1,170.00 from the landlord for return of the deposit plus hydro and that the \$820.00 returned meant the landlord returned \$750.00 of the security deposit plus \$70.00 hydro and still owed the tenants \$350.00 of the deposit.

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 of the tenants, I find the tenancy ended and the tenants provided the landlord with their forwarding address on May 30, 2012. As such, I find the landlord had until June 14, 2012 to return the deposit or file an Application for Dispute Resolution to claim against the deposit.

From the evidence and testimony before, I find the landlord did not return any of the deposit on or before June 14, 2012 and as such the tenants are entitled to double the amount of the security deposit.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,500.00** comprised of \$2,200.00 double the security deposit plus the \$50.00 fee paid by the tenant for this application less \$750.00 the amount of the security deposit returned by the landlord.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant 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: September 07, 2012.

Residential Tenancy Branch