



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 response to an application made by the tenants for a monetary order for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlord for the cost of the application.

One of the tenants attended the conference call hearing, provided evidentiary material prior to the hearing, and gave affirmed testimony. However, despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents by registered mail on August 1, 2012, no one for the landlord company attended. The tenant testified to serving the documents on that date and in that fashion and provided a tracking number assigned by Canada Post for the registered mail. The line remained open and the phone system was monitored for 10 minutes prior to commencing the hearing to provide the landlord with further opportunity to attend, however the only participant who joined the hearing was the tenant. I find that the landlord has been served in accordance with the *Residential Tenancy Act*.

All evidence and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Have the tenants established a claim as against the landlord for a monetary order for return of all or part or double the amount of the pet damage deposit or security deposit?

Background and Evidence

The tenant testified that this fixed term tenancy began on June 1, 2009 and expired on June 30, 2010 and then reverted to a month-to-month tenancy. Rent in the amount of \$1,000.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. On April 28, 2009 the landlord collected a security deposit from the tenants in the amount of \$500.00 and the landlord has not returned any of it to the

tenants. A copy of the tenancy agreement was provided for this hearing, and the tenant testified that no move-in or move-out condition inspection reports were completed.

The tenant further testified that a letter was left with the building manager on October 29, 2010 which provided the landlord with written notice of the tenants' intention to vacate the rental unit on November 30, 2010 and the letter contained a forwarding address and new phone number of the tenants. A copy of the letter was provided for this hearing. The building manager told the tenant to expect a cheque in the mail. The tenant contacted the building manager again who said he was surprised that the landlord had not returned the security deposit, and the tenant testified that neither the tenant nor the building manager were aware of any reason that it wasn't returned. The tenant also sent another letter to the landlord but did not receive any response.

The tenant further testified that an Application for Dispute Resolution was filed previously claiming the security deposit, but the landlord did not attend the hearing and the tenant was not able to provide a tracking number of the Register Mail package that served the landlord with the application and notice of hearing. The result of the hearing was a dismissal of the tenants' application with leave to reapply.

The tenant further testified that the landlord has not served the tenants with an Application for Dispute Resolution.

Analysis

The *Residential Tenancy Act* requires a landlord to return a security deposit and pet damage deposit to a tenant in full or apply for dispute resolution claiming against the deposits within 15 days of the later of the date the tenancy ends or the date the landlord receives a forwarding address in writing. If the landlord fails to do either, the landlord must pay the tenant double the amount of the deposits. In this case, I am satisfied that the landlord received the tenants' forwarding address in writing on the same day that the landlord received the tenants' notice to vacate the rental unit, which was on October 29, 2010. The tenancy ended on November 30, 2010. No one for the landlord company attended the hearing to testify, and I accept the testimony of the tenant that the landlord has not served the tenant with an Application for Dispute Resolution claiming against the security deposit. Therefore, I must find that the tenant is entitled to double recovery of the security deposit and recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,050.00.

This order is final and binding on the parties and may be enforced.

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: October 17, 2012.

Residential Tenancy Branch