



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

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 and the landlord's agent.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of double the amount of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided into evidence a tenancy agreement signed by the parties on June 27, 2012 for a month to month tenancy beginning on July 1, 2012 for a monthly rent of \$830.00 due on the 1st of each month with a security deposit of \$420.00 paid.

The parties agree they entered into the above noted tenancy agreement but that on June 30, 2012 the tenant attended the rental unit; obtained keys to the unit; and determined the unit was not suitable for occupation due to smells related to newly completed renovations.

The tenant returned the keys and did not move in to the rental unit. The tenant submitted copies of letters he provided to the landlord on July 26, 2012 providing the landlord with his forwarding address.

The landlord's agent testified that she received the tenant's forwarding address in her department in early November 2012 but that they were not date stamped and she could not confirm when the landlord received them.

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.

In the absence of any testimony or evidence to dispute the tenant's testimony and evidence I find that he provided his forwarding address to the landlord on July 26, 2012. As such, the landlord had until August 10, 2012 to return the deposit in full or file an Application for Dispute Resolution to claim against the deposit.

As the landlord did neither of these I find the landlord has not complied with Section 38(1) and the tenant is entitled to double the amount of the security deposit in accordance with Section 38(6).

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$890.00** comprised of \$840.00 double the security deposit and the \$50.00 fee paid by the tenant for this application.

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: January 25, 2013

Residential Tenancy Branch

