



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

DISPUTE CODES MNSD, FF

INTRODUCTION

This hearing dealt with an application by the tenants pursuant to the *Residential Tenancy Act* for orders as follows:

1. Monetary order for return of pet damage or security deposit pursuant to Section 38.

I accept that the landlords were properly deemed served with the Application for Dispute Resolution hearing package sent by way of registered mail.

The landlords did not attend. The tenants were given a full opportunity to be heard, to present evidence and to make submissions. On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

BACKGROUND AND EVIDENCE

The tenants testified that they moved into the rental unit on August 31, 2012 at which time they paid a security deposit of \$575.00. The tenants testified that they were evicted from the premises on September 8, 2012. The tenants testified that they asked the landlord for the return of their deposit a few times but the deposit was not forthcoming. The tenants then spoke with the Residential Tenancy Branch and learned that they must provide the landlord with their forwarding address in writing. The tenants testified that they then supplied their forwarding address in writing, in person to the landlord on September 28, 2012. The tenants submitted a copy of the note they gave to the landlord. The tenants testified that despite providing their forwarding address to the landlord their deposit has not been returned to them.

FINDINGS

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenants' forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain all or part of the deposit if the landlord believes they have cause to retain all or part of the deposit.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the deposit (section 38(6)). If the tenant does not supply his forwarding address in writing within a year, the landlord may retain the deposit.

I find that the landlord has not returned the security deposit within 15 days of receipt of the tenant's forwarding address. The tenants are therefore entitled to a monetary order amounting to double the deposit with no interest having accrued.

Having been successful in this application, I find further that the tenant is entitled recover the \$50.00 filing fee paid for this application.

Total monetary award payable by the landlord to the tenants:

Security Deposit	\$575.00
Double Security Deposit	575.00
TOTAL MONETARY AWARD	\$1150.00

The tenant is provided with an Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. This is a final and binding Order as any Order of the Provincial Court of British Columbia.

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 22, 2013

Residential Tenancy Branch

