



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 concerning an application made by the tenants 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.

Both tenants attended the conference call hearing, however only one of the tenants testified. Despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents by registered mail on November 29, 2012, the landlord did not attend. The tenant testified to the documents being served on that date and in that manner and provided a copy of the Canada Post tracking ticket as evidence of such service, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*. The line remained open while the phone system was monitored for ten minutes and the only participants who joined the conference call hearing were the tenants.

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

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlord 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 month-to-month tenancy began on May 1, 2011 and ended on October 1, 2012. Rent in the amount of \$1,325.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. On May 1, 2011 the landlord collected a security deposit from the tenants in the amount of \$625.00.

The tenant further testified that the landlord was provided with a forwarding address in writing on October 1, 2012 but the tenants did not keep a copy. The tenants saw the landlord on several occasions after that and asked for return of the security deposit, to which the landlord continually responded that it would be returned.

The tenants, having not received the security deposit, filed the Tenant's Application for Dispute Resolution on November 28, 2012 and were provided with a hearing notice on November 29, 2012, at which time the tenants served the landlord by registered mail. Once the landlord received the tenants' application, the landlord returned the entire security deposit to the tenants, which was received by the tenants on December 1, 2012. The tenants asked the landlord for recovery of the \$50.00 filing fee, but the landlord has not responded.

The tenants specifically waived doubling the deposit, but request a monetary order in the amount of \$50.00 for recovery of the filing fee.

Analysis

The *Residential Tenancy Act* states that a landlord must return a security deposit and a pet damage deposit to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must apply for Dispute Resolution for an order permitting the landlord to keep the deposits for unpaid rent, utilities, or damages within that 15 day period. If the landlord fails to do either, the landlord must be ordered to repay double the amount of such deposits, unless the tenants specifically waive the return of double the amount.

In this case, the tenants were not able to provide evidence of the date the landlord received the forwarding address in writing, and the tenants have specifically waived doubling the deposit. The tenants have received the security deposit, but I accept the testimony of the tenant that the landlord failed to return it until served with the Tenant's Application for Dispute Resolution. Therefore, I find that the tenants have established a monetary claim as against the landlord in the amount of \$50.00 for recovery of the filing fee. I find that the tenants would not have incurred that expense if the landlord had complied with the *Act* by returning the security deposit when required to do so.

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 \$50.00.

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: February 27, 2013

Residential Tenancy Branch

