



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenants for a monetary order. Despite having been served on December 29, 2012 with the application for dispute resolution and notice of hearing sent to the rental unit, which is the address at which the landlord had been carrying on business as a landlord, the landlord did not participate in the conference call hearing. I was satisfied that she had been properly served and the hearing proceeded in her absence.

Issue to be Decided

Are the tenants entitled to a monetary order as claimed?

Background and Evidence

The tenants' undisputed evidence is as follows. The parties signed a tenancy agreement on November 19, 2012 at which time the tenants paid an \$875.00 security deposit. The tenancy was set to begin on January 1, 2013, but when the tenants attempted to negotiate a lower rental rate, the landlord advised that she did not intend to proceed with the agreement. On December 3, 2012, the tenants gave the landlord their forwarding address in writing by sending the address to the landlord at the rental unit via registered mail.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. I find the landlord received the tenants' forwarding address on December 8, 5 days after it was mailed, and I find that the landlord failed to repay the security deposit or make an application for dispute

resolution within 15 days and is therefore liable under section 38(6) which provides that the landlord must pay the tenants double the amount of the security deposit.

The landlord currently holds a security deposit of \$875.00 and I order her to return double this amount. I award the tenants \$1,750.00. I find that as the tenants were successful in their application, they should recover the filing fee paid to bring the application and I award them \$50.00.

Conclusion

I grant the tenants an order under section 67 for \$1,800.00 which includes the double security deposit and the \$50.00 filing fee. This order may be filed in the Small Claims Court and 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: March 18, 2013

Residential Tenancy Branch

