



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gatensbury Apartments Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in repose to the tenant's application for the return of double the security deposit and to recover the filing fee from the landlords for the cost of this application.

The tenant and landlord's agent attended the conference call hearing, gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord confirmed receipt of the tenants hearing package and evidence. The evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Is the tenant entitled to recover double the security deposit?

Background and Evidence

The parties agree that this tenancy started on February 01, 2012 for a six month fixed term. At the end of the fixed term the tenancy reverted to a month to month tenancy. The tenancy ended on October 31, 2012 after the tenant gave the landlords written notice to end the tenancy on September 08, 2012. Rent for this unit was \$990.00 per month due on the first day of each month in advance. The tenant paid a security deposit of \$488.00 on January 27, 2012.

The parties also agree that the landlord did not attend a move in condition inspection at the start of the tenancy. The tenant filled in the inspection form and returned it to the landlord for the landlord's agent to sign.

The tenant testifies that at the end of the tenancy he vacated on October 20, 2012 but had given the landlord his telephone number if the landlord needed to reach the tenant. The tenant testifies that the landlord did not contact the tenant to do a move out condition inspection on October 31, 2012.

The tenant testifies that the landlord was given the tenants forwarding address on the Notice to end tenancy that was given to the landlord on September 08, 2012 a copy of which has been provided in evidence. The tenant testifies that the landlord has failed to return the security deposit and the tenant now seeks to recover double the deposit to the amount of \$976.00 and the \$50.00 filing fee paid for this application.

The landlord's agent testifies that he was not aware he had to attend a move in inspection at the start of the tenancy. The landlord's agent testifies that the tenant moved out on October 20, 2012 and no inspection was done then as the tenant had already vacated the rental unit.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on September 08, 2012 and the tenancy ended on October 31, 2012. I further find that as the landlord failed to complete either inspection with the tenant at the start or end of the tenancy that the landlord has extinguished their right to file a claim against the security deposit. As a result, the landlord had until November 15, 2012 to return the tenants security deposit.

I find the landlord did not return the security deposit and consequently the tenant has established a claim for the return of double the security deposit to the amount of **\$976.00** pursuant to section 38(6)(b) of the *Act*.

I further find the tenant is entitled to recover the **\$50.00** filing fee from the landlord pursuant to section 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,026.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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 15, 2013

Residential Tenancy Branch

