



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlord: MND, MNSD, MNDC, FF
Tenant: MNSD, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking a monetary order for compensation for damage to the unit, site or property, compensation for loss or damage under the Act, regulations or tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding. As the Landlords did not attend the hearing to support their application, I dismiss the Landlords' application in full and without leave to reapply.

The Tenant filed for the return of the security deposit.

Service of the hearing documents by the Tenant to the Landlords was done by registered mail on January 14, 2013, in accordance with section 89 of the Act.

Issues to be Decided

Tenant:

1. Is the Tenant entitled to recover the security deposit?

Background and Evidence

This tenancy started on October 1, 2010 as a 1 year fixed term tenancy and then continued on a month to month basis. Rent was \$1,190.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$600.00 in September 2010.

The Tenant said he moved out of the rental unit on October 31, 2012 and gave the Landlord his forwarding address in writing on October 31, 2012. The Tenant said there was no move in or move out condition inspection reports completed and signed. The

Tenant said he has received \$400.00 of his security deposit on January 11, 2013. The Tenant continued to say that the Landlord did send a check to him at the end of November, 2012, but it was not signed so it was not cashable. As well the Tenant said he had discussions with the Landlord about the Landlord retaining \$150.00 for a stain on the carpet, but the Landlord kept \$200.00 for the damage to the carpet. There was nothing in writing that supported an agreement that the Landlord was to retain part of the Tenant's security deposit for damage to the carpet.

Analysis

Section 38 (1) of the Act says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and
- (b) **must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.**

I accept the Tenant's testimony and written evidence that he give the Landlord a forwarding address in writing on October 31, 2012, which was the same day the tenancy ended. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or after receiving a forwarding address in writing from the

Tenant, nor did the Landlord apply for dispute resolution by November 15, 2012. Consequently I find for the Tenant and grant an order for double the security deposit of \$600.00 in the amount of \$1,200.00 (2 X \$600.00) less the \$400.00 the Landlord returned to the Tenant on January 11, 2013.

As the Tenant has been successful in this matter I order the Tenant to recover the \$50.00 filing fee for this proceeding from the Landlord.

A monetary order has been issued to the Tenant for the following:

	Double Security deposit	\$ 1,200.00
	Filing Fee	\$ 50.00
	Sub Total	\$ 1,250.00
Less	Return of partial security deposit	\$ 400.00
	Sub Total	\$ 400.00
	Total Owing	\$ 850.00

Conclusion

The Tenant has been issued a monetary Order for \$850.00, which represents double the Tenant's security deposit and the filing fee less the amount of security deposit returned to date.

The Landlords' application is dismissed without leave to reapply.

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: April 02, 2013

Residential Tenancy Branch

