



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METROCORE REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MND, MNSD, FF

Introduction

This hearing was convened the application of the seeking recovery of his security deposit and the filing fee paid for this application.

Both parties appeared at the hearing and gave evidence under oath.

Background Summary

The evidence is that at the start of this tenancy in March 2008 the tenant paid a security deposit of \$725.00. This tenancy ended on December 31, 2012 and the parties agree that the tenant provided his forwarding address to the landlord on or about December 23 or 24, 2012. The tenant testified that the landlord returned only \$501.00 of the deposit and the tenant confirms that he did not give his permission for the landlord to retain any portion of his deposit. Further, the tenant confirms that he has not been served with an Order issued by an Arbitrator of the Residential Tenancy Branch allowing the landlord to retain any portion of the deposit.

The landlord acknowledges receiving the tenant's forwarding address and confirms that he returned \$501.00. The landlord submits that the tenancy agreement signed by the tenant provides for some cleaning that the tenant did not complete at the end of the tenancy. The landlord therefore withheld a sum from the deposit and returned \$501.00.

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 tenant's forwarding address writing whichever is later, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain 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)).

The evidence shows that the tenants paid a security deposit totaling \$725.00 and that the landlord received the tenant's forwarding address but did not return the entire deposit. The landlord returned the sum of \$501.00 to the tenants although the tenants did not agree to any deductions from their deposits.

I find that the landlord did not comply with Section 38 and he must pay the tenants double the deposit. However, the evidence is that the tenant has received a partial payment of \$501.00 and this sum shall be deducted from the award.

As the tenant has been successful in this claim I will also award them recovery of the \$50.00 filing fee for a total monetary award in favour of the tenants.

Calculation of monetary award in favour of tenant:

Deposit paid March 1, 2008	\$725.00
Interest on Deposit from date paid to date of this Order	0.00
Double Deposit pursuant to Section 38	725.00
Less payment made by landlord	-501.00
Filing fee	50.00
Total amount payable by landlord to tenant	\$999.00

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 enforceable as any Order of the Small Claims Division of the Provincial 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: April 08, 2013

Residential Tenancy Branch