



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking a monetary order. The hearing was conducted via teleconference and was attended by both tenants and both landlords.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began on December 1, 2009 as a month to month tenancy for a monthly rent of \$950.00 due on the 1st of each month with a security deposit of \$475.00 and a pet damage deposit of \$475.00 paid. The parties also agreed the tenancy ended on October 31, 2012.

The tenants testified they provided the landlord with their forwarding address via email on November 8, 2012. The landlords did not dispute receiving the forwarding address on this date.

The parties agreed that they completed a move out condition inspection on November 30, 2012 and that the landlord provided a copy of the Condition Inspection Report via email. The landlords assert the tenants had agreed to damage to the unit. The tenants submit that they had agreed, by email dated January 17, 2013, to the contents of the Report with the exception of the kitchen door, but they did not agree to any deductions for the landlords to withhold.

The tenants submit that the landlord attempted, on February 7, 2013, to provide a cheque for return of the deposits however, because the tenants had filed their Application for Dispute Resolution the same day they declined to accept the landlord's

cheque and they indicate they did not know how much the cheque was for. The landlord testified the cheque was for the full security and pet damage deposit amounts.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security and pet damage deposits (in full or less any mutually agreed upon, in writing, amounts) or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

From the testimony and evidence provided I accept the tenancy ended on October 31, 2012. From the undisputed testimony of the tenants I accept the landlords received the tenants' forwarding address on November 8, 2012. As such I find that in order for the landlords to be compliant with Section 38(1) they were required to return both deposits no later than November 23, 2013.

While I accept that the landlords were not able to arrange a move out inspection until after this date the requirement under Section 38(1) must still have been met. Despite attempting to return the deposits on February 7, 2013, I find that even if the tenants had accepted their return at that time, the landlords would still have been obligated by Section 38(6) to provide the tenants with double the amounts of the deposits.

Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,950.00** comprised of \$1,900.00 double the security and pet damage deposit and the \$50.00 fee paid by the tenants for this application.

This order must be served on the landlords. If the landlords fail to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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: May 06, 2013

