



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 643138 B C Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenants for return of double the security deposit. Both parties appeared and had an opportunity to be heard.

Issue(s) to be Decided

Are the tenants entitled to a monetary order and, if so, in what amount?

Background and Evidence

This tenancy commenced July 1, 2008 and ended January 31, 2013. The monthly rent remained at \$1695.00 throughout the tenancy. The tenants paid a security deposit of \$847.50.

The tenant testified that he gave the landlord their forwarding address in writing on the day they moved out; by registered letter mailed February 19, 2013; and in the application for dispute resolution which sent by registered mail on April 11, 2013. The landlord acknowledged receipt of the tenants' forwarding address on all three occasions.

The landlord testified that on February 3, 2013, he posted a notice at the tenants' new home advising that the security deposit was being withheld because of damage to the rental unit and setting out the amount claimed. The landlord has not yet filed an application for dispute resolution but intends to do so later today. The landlord continues to hold the security deposit.

Analysis

Section 38(1) of the *Residential Tenancy Act* provides that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit to the tenant or file an application for dispute resolution claiming against the deposit. In the present case, the landlord has done neither.

Section 38(6) provides that if a landlord does not comply with section 38(1), the landlord must pay the tenant double the amount of the security deposit. The legislation does not allow any flexibility on this issue.

I find that the tenants are entitled to an order that the landlord pay them the sum of \$1695.00, representing double the security deposit. I further order that as the tenants were successful on their application they are entitled to reimbursement from the landlord of the \$50.00 fee they paid to file it. Accordingly, I grant the tenants an order in the amount of \$1745.00.

This order does not prevent the landlord from filing a separate application for dispute resolution against the tenants for a monetary order for any damages or cleaning costs that may be proven at that hearing.

Conclusion

A monetary order in favour of the tenants has been made. If necessary, 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: June 18, 2013

Residential Tenancy Branch

