



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, 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 one of the tenants and the landlord.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for return of double the amount of the security deposit and to recover the filing fee from the landlord 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 agree the tenancy began as a month to month tenancy beginning on August 1, 2010 for a monthly rent of \$1,100.00 (at the end of the tenancy) due on the 1st of each month with a security deposit of \$500.00 paid.

The tenants submit the tenancy ended on July 1, 2013. The landlord submits the tenancy ended on June 30, 2013. Both parties agree that after the end of the tenancy the tenant did attend the property on a couple of occasions to remove additional items.

The tenants provided documentary evidence to confirm that they provided their forwarding address in writing via email to the landlord on July 2, 2013. The landlord acknowledges receipt of the tenant's forwarding address on July 2, 2013.

The tenants provided a copy of a cheque payable to one of the tenants from the landlord in the amount of \$150.00 dated August 6, 2013 noting "damage deposit". The tenant has written void on the cheque. The tenant submits that he is still in possession of the cheque.

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 deposit 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.

I find the landlord was made aware of the tenant's forward address by email on July 2, 2013. As such, I find the landlord had 15 days from July 2, 2013 or by July 17, 2013 to either file an Application for Dispute Resolution to claim against the deposit or to return the deposit, less any mutually agreed upon amounts, to the tenants.

As there is no evidence before me that the tenants had agreed to any deductions, I find the landlord failed to comply with Section 38(1) and the tenants are entitled to return of double the deposit pursuant to Section 38(6).

As the tenant has voided the cheque dated August 6, 2013 from the landlord I order the tenant to return that cheque to the landlord.

Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,050.00** comprised of \$1,000.00 double the security deposit and the \$50.00 fee paid by the tenants for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant 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: October 29, 2013

Residential Tenancy Branch

