



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AMBER PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was convened in response to an application by the tenant for a monetary order for the return of the security deposit and compensation under Section 38 of the *Residential Tenancy Act* (the Act). The application is inclusive of an application to recover the filing fee for the cost of this application. Both, the tenant and the landlord's representative attended today's hearing.

Issue(s) to be Decided

Is the tenant entitled to double the security deposit amount claimed?

Background and Evidence

The undisputed facts before me, as testified by both parties, are as follows.

The tenancy began July 2012 and ended on July 01, 2013 when the transferred to a neighbouring rental unit on the same residential property, with the landlord's knowledge, and paid a new security deposit. At the outset of the 2012 tenancy the landlord collected a security deposit of \$375.00. There was a move in inspection conducted at the outset. There was a move out inspection conducted at the end of the tenancy. The landlord testified that on July 01, 2013 he was in possession of the tenant's forwarding address in writing. The tenant testified that they made requests for the return of the security deposit, but to date has not received any portion of it. The landlord's

representative testified they communicated with head office and was under the belief that the head office had dealt with the matter and thinks there may have been a misunderstanding.

Analysis

Section 38(1) of the Act provides as follows (**emphasis for ease**)

38(1) Except as provided in subsection (3) or (4) (a), **within 15 days after the later of**

38(1)(a) the date the tenancy ends, and

38(1)(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord **must** do one of the following:

38(1)(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;

38(1)(d) file an application for dispute resolution to make a claim against the security deposit or pet damage deposit.

I find that the landlord failed to repay the security deposit, or to make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing and is therefore liable under section 38(6) which provides:

38(6) If a landlord does not comply with subsection (1), the landlord

38(6)(a) may not make a claim against the security deposit or any pet damage deposit, and

38(6)(b) **must pay the tenant double the amount of the security deposit**, pet damage deposit, or both, as applicable.

The landlord currently holds a security deposit of \$375.00 and was obligated under section 38 to return this amount. The amount which is *doubled* is the \$375.00 original amount of the deposit. As a result I find the tenant has established an entitlement claim

for \$750.00 and is further entitled to recovery of the \$50 filing fee for a total entitlement of **\$800.00**.

Conclusion

I grant the tenant an Order under Section 67 of the Act for the sum of **\$800.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This Decision is final and binding on both parties.

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: December 09, 2013

Residential Tenancy Branch

