



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

The tenant applies for the return of the tenant's security deposit, doubled.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit, doubled?

Background and Evidence

This tenancy began September 1, 2012. The tenant paid a security deposit of \$500.00 on September 4, 2012. The deposit was paid to the former owner of the home, and the current landlord purchased the home in the following summer. The tenancy ended on or about August 23, 2013. The security deposit was not returned to the tenant. The landlord was properly provided with the tenant's forwarding address in September, 2013. The tenant did not consent in writing to the landlord retaining any of the deposit, and that the landlord has not filed a formal application to retain the deposit within the required 15 day period.

Analysis

In most situations, 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, to either return the deposit or file an application 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 security deposit (section 38(6)). There is no evidence before me that any of the exceptions to the landlord's obligations under section 38(1) apply in this case. There is

no evidence that any statutory grounds extinguish the tenant's right to claim the deposit. I find the tenant entitled to double the deposit, which is \$1,000.00, together with recovery of the filing fee of \$50.00, for a total of \$1,050.00.

This decision does not address the issue of any remaining monetary claim by the landlord as against the tenant. Should the landlord intend to pursue any such claim, the landlord must file a separate application.

Conclusion

The tenant is entitled to double the deposit. A monetary order in the amount of \$1,050.00, payable by the landlord to the tenant is issued.

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: February 04, 2014

Residential Tenancy Branch

