



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Covert investments Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the tenants' application for a Monetary Order to recover double the security and pet deposit and to recover the filing fee from the landlords for the cost of this application.

One of the tenants and one of the landlords attended the conference call hearing and gave sworn testimony. The testimony of the parties has been considered in this decision.

Preliminary Issues

The landlord advised me there was an error in one of landlord's names. The parties did not raise any objections to the error being corrected and this has now been amended.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Order to recover double the security and pet deposits?

Background and Evidence

The tenant attending testifies that this tenancy started on July 01, 2012. Rent for this unit was \$590.00 due on the 1st day of each month. The tenants paid a security deposit of \$295.00 and a pet deposit of \$295.00 at the start of the tenancy. The landlord attending testifies that the manager in place for this building was taken ill and did not pass on the documentation for these tenants and has since disappeared. The landlord testifies that he cannot deny or confirm these details.

The tenant testifies that the tenancy ended with proper notice on September 30, 2013. The tenant and the building manager did a move out inspection on that day and the tenant provided there forwarding address on the move out condition inspection report. The tenant testifies that they were never given a copy of the report. The tenant testifies that the building manager assured the tenants that everything was fine and their security and pet deposits would be returned.

The tenant testifies that the landlords had not returned the security or pet deposit within 15 days and the tenants filed an application to recover double the security and pet deposit on November 07, 2013. The tenant testifies that on November 21, 2013 the tenants found a cheque in the mail box for \$590.00 from the landlords. This cheque was dated November 05, 2013.

The tenant amends their application to recover the doubled portion of the security and pet deposit only of \$590 plus the \$50.00 filing fee.

The landlord testifies that as they did not receive any documentation from the previous manager that they cannot agree or dispute the tenants claims. The landlord testifies that he took over as manager of this building on December 01, 2013.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security and pet deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the testimony presented I find that the landlords did receive the tenants forwarding address on the move out condition inspection report on September 30, 2013. As a result, the landlords had until October 15, 2013 to return the tenants security and pet deposit or apply for Dispute Resolution to make a claim against it. I find the landlords did not return the security or pet deposit within the 15 allowable days and have not filed an application for Dispute Resolution to keep either of the deposits. Therefore, I find that the tenants have established a claim for the return of double the security and pet deposit pursuant to section 38(6)(b) of the *Act*.

As the landlords did return the security and pet deposits of \$590.00 by cheque dated November 05, 2013 I will deduct this amount from the tenants' claim of \$1,180.00. I find the tenants are also entitled to recover the \$50.00 filing fee from the landlords pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants' amended monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$640.00**. The Order must be served on the respondents. Should the respondents fail to comply with the Order the Order may be enforced through the Provincial Court 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: March 10, 2014

Residential Tenancy Branch

