



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NORTH AMERICA FAREAST
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with a tenant's application for return of double the security deposit and interest. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

On a procedural note, the application was amended with consent by both parties to correctly identify the tenants.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Order for return of double the security deposit and interest?

Background and Evidence

The tenancy commenced in March 2001 and the former property manager collected a security deposit of \$940.00 on March 5, 2001. The tenants vacated the rental unit November 30, 2013 and on December 1, 2013 the male tenant and the landlord's agent participated in a move-out inspection together. The tenant provided his forwarding address on the move-out inspection report and did not authorize any deductions from the security deposit in writing. .

The tenants are seeking return of double the security deposit plus interest.

The landlord was of the position the tenants are responsible for cleaning costs and damage to the rental unit. The landlord tried contacting the tenant to obtain the tenant's agreement to pay for damages but the tenant refused.

The landlord did not return the security deposit to the tenants and did not file an Application for Dispute Resolution.

Analysis

As the parties were informed during the hearing, the landlord's position that the tenants are responsible for damage and cleaning costs were not issues for me to decide by way of this proceeding as the landlord had not made an Application for Dispute Resolution. The purpose of this hearing was to hear the tenants' Application for Dispute Resolution and determine whether the landlord complied with the Act with respect to handling the security deposit. The landlord remains at liberty to make a separate application for damages or loss within the time limit specified under the Act.

In the absence of any written authorization to make deductions from the security deposit, the landlord was required to comply with section 38(1) of the Act by either returning the security deposit and interest to the tenants or making an Application for Dispute Resolution within 15 days from the later of the day the tenancy ended or the date the landlord received the tenant's forwarding address in writing.

Where a landlord does not comply with section 38(1) of the Act, section 38(6) requires that the landlord must pay the tenant double the security deposit. The requirement to pay double the amount of the deposit is not discretionary and must be administered in accordance with the Act.

In this case, I find that the tenancy ended on November 30, 2013 and the tenant provided a written forwarding address to the landlord on December 1, 2013 meaning the landlord had until December 16, 2013 to either refund the security deposit and interest or file an Application for Dispute Resolution claiming against it. Since the landlord failed to do one of these two things, the landlord must now pay the tenants double the security deposit, plus interest on the amount of the original deposit. I calculate the interest on the original deposit to be \$57.44.

As the tenants were successful in this application, the tenants are also awarded the filing fee paid for making this application. I calculate that the landlord is obligated to pay the tenants the following amount:

Double security deposit (\$940.00 x 2)	\$1,880.00
Interest on deposit	57.44
Filing fee	<u>50.00</u>
Monetary Order for tenants	\$1,987.44

To enforce the Monetary Order it must be served upon the landlord and it may be filed in Provincial Court (Small Claims) to enforce as an Order of the court.

Conclusion

The tenants have been provided a Monetary Order in the amount of \$1,987.44 to serve and enforce as necessary.

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: April 24, 2014

Residential Tenancy Branch

