



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Garibaldi Garden Court
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the tenants for the return of their security deposit and to recover their RTB filing fee.

One of the tenants attended the teleconference hearing and gave evidence, however the landlord did not attend. The tenant gave evidence that the landlord was served by placing the Notice of a Dispute Resolution Hearing and Tenant's Application for Dispute Resolution in the drop-box outside the landlord's apartment door on January 9, 2014. The tenant gave evidence that she telephoned the landlord and he confirmed that he received the documents. I find the landlord was properly served.

Issue(s) to be Decided

Are the tenants entitled to the return of their security deposit?

Are the tenants entitled to an award of double their security deposit?

Background and Evidence

The tenant gave evidence that they were obligated to pay \$700.00 rent monthly in advance on the first day of the month, and they paid a security deposit of \$350.00.

The tenant gave evidence that she advised the property manager on October 1, 2013 that they were going to move out on October 31, 2013. Her evidence is that she emailed the property manager on October 5, 2013 to confirm they were moving out and she provided her forwarding address in writing to him at that time.

The tenant gave evidence that they moved out on October 31, 2013. Her evidence is that she did a walk-through inspection with the property manager at that time and he said everything was fine. The tenant's evidence is that the property manager told her

he would send the security deposit within 15 days, however they have not received the security deposit.

Analysis

The process for the return of security deposits is set out in Section 38 of the Act. Pursuant to Section 38(1), the landlord must either repay the security deposit or apply for dispute resolution to make a claim against the security deposit within 15 days of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing (whichever is later). Alternatively, pursuant to Section 38(4)(a), a landlord may retain all or part of a security deposit if the tenant agrees in writing.

In this case, I find the tenancy ended on October 31, 2013. The landlord did not apply for dispute resolution to make a claim against the security deposit within 15 days. Also, the tenant did not agree in writing to the retention of any part of the security deposit. The landlord is therefore obligated to return the entire security deposit to the tenant.

According to Section 38(6), a landlord who fails to follow Section 38(1) must pay the tenant double the amount of the security deposit. In this case, the landlord failed to repay the tenant the amount of \$350.00 from her security deposit. The tenant is therefore entitled to an order for twice that amount, which is \$700.00. The tenant is also entitled to recover her RTB filing fee of \$50.00 from the landlord.

I grant the tenant an order under Section 67 for \$750.00. This order may be filed in Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order for \$750.00.

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: May 06, 2014

Residential Tenancy Branch

