



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

This was an application by the tenant for a monetary order for compensation and for the return of his security deposit including double the deposit amount. The hearing was conducted by conference call. The tenant called into the hearing and was assisted by an advocate. The landlord did not call in and did not participate in the hearing, although she was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on February 5, 2014.

Issue(s) to be Decided

Is the tenant entitled to the return of his security deposit including double the amount?
Is the tenant entitled to monetary compensation for the amounts paid pursuant to an illegal rent increase?

Background and Evidence

The rental property is a house in Richmond. The tenant and his wife agreed to rent a room in the house and share the kitchen and living areas with another tenant of the landlord. The tenancy began June 14, 2012. The monthly rent was \$700.00 and the tenant paid a \$350.00 security deposit on June 14, 2012. There is no written tenancy agreement.

On January 11, 2013 by way of an e-mail message the landlord advised the tenants that the rent would increase by \$50.00 per month starting March, 2013. The tenants paid the increased rent for March, April and May. On May 14, 2013 the tenants notified the landlord by e-mail that they intended to move out of the rental unit as of June 14, 2013. The tenants moved out on June 14th. There was no condition inspection when the tenants moved out and no inspection was performed when they moved in. The landlord sent the tenants an e-mail message on June 18, 2013, claiming to have incurred

cleaning and repair costs totalling \$575.00 and showing that the landlord was retaining the whole of the tenants' security deposit.

On December 23, 2013 the tenant sent letters to the landlord by registered mail requesting the return of the security deposit and requesting the refund of the rent increase charged by the landlord. The landlord did not respond to the letters. The landlord did not return the security deposit and she did not file an application for dispute resolution to claim the deposit. The tenant filed the application for dispute resolution on February 3, 2014 and sent it to the landlord by registered mail on February 5, 2014.

Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

I am satisfied that the tenant provided the landlord with his forwarding address in writing sent by registered mail on December 23, 2013 and I find that the tenant served the landlord with documents notifying the landlord of this application as required by the *Act*.

The tenant's security deposit was not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the doubling provision of section 38(6) therefore applies. I grant the tenant's application and award him the sum of \$700.00, being double the amount of the security deposit. With respect to the tenant's claim for the refund of the rent increase, the *Residential Tenancy Act* requires that a rent increase may only be given to be effective no earlier than the anniversary of the commencement of the tenancy. The landlord must give three months' notice of the increase using the approved form and the increase must not exceed the allowable amount. The landlord followed none of these requirements and the tenant is entitled to a monetary award in the amount of \$150.00, being the amount of increased rent paid by the tenant. The tenant claimed other amounts, including the cost to rent a post box, the cost of registered mail and the cost for a title search to establish that the landlord was in fact the owner of the rental property. These are not recoverable expenses. The tenant did not pay a filing fee for this application. The total award to the tenant is the sum of

\$850.00 and I grant the tenant a monetary order against the landlord in the said amount. This order may be registered in the Small Claims Court and enforced 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: May 21, 2014

Residential Tenancy Branch

