



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenants for the return of their security deposit.

Both the landlord and one of the tenants attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for the return of her security deposit?

Background and Evidence

The parties agree the tenancy started October 15, 2013 and ended on December 31, 2013. The tenants paid a security deposit of \$400.00.

The tenant gave evidence that they moved out on December 27, 2013. She says they waited for the landlord until about 6 p.m. and then had to leave. They provided their forwarding address to the landlord in writing by putting the address on a post-it note and attaching it to the rental unit wall.

The tenants' evidence is that they requested the return of their security deposit but the landlord did not return it to them.

The landlord gave evidence that the tenant's forwarding address was a temporary address in Saskatchewan not a permanent address. He agrees he did not return the security deposit, and says he was under the impression that the tenants forfeited their security deposit by breaking the lease.

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 tenants provided their forwarding address to the landlord in writing on December 27, 2013 and the tenancy ended on December 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 tenants the amount of \$400.00 from their security deposit. The tenants are therefore entitled to an order for twice that amount, which is \$800.00. The tenants are also entitled to recover their RTB filing fee of \$50.00 from the landlord.

I grant the tenants an order under Section 67 for \$850.00. This order may be filed in Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenants a monetary order for \$850.00.

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: July 11, 2014

Residential Tenancy Branch

