



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This was an application by the tenants for a monetary order compensation and for the return of their security deposit including double the deposit amount. The hearing was conducted by conference call. The named tenant and the named landlords participated in the hearing.

Issue(s) to be Decided

Are the tenants entitled to the return of their security deposit including double the amount?

Background and Evidence

The rental unit is a basement suite in the landlord's house in Surrey. The tenancy began on May 15, 2012. The tenants paid a security deposit of \$325.00 at the start of the tenancy.

The tenants moved out of the rental unit without notice on June 30, 2014. The tenant gave the landlord a letter dated July 1, 2014 advising the landlord that they had moved out of the rental unit and providing their forwarding address.

The landlord did not return the tenants' security deposit and did not file an application for dispute resolution to make a monetary claim to retain the security deposit. On July 21, 2014 the tenants submitted an application for dispute resolution to claim the return of the security deposit, including double the amount of the deposit.

The landlord submitted a written statement in response to the tenants' claim and sent photographs that were said to show the need for cleaning and repairs to the rental unit

after the tenants moved out. The landlords also said they were entitled to damages because the tenants did not give proper written notice one month before ending the tenancy. The landlords

The landlord did not return the security deposit and she did not file an application for dispute resolution to claim the deposit. The landlord testified that she expected to have her claims dealt with at the hearing of the tenant's application. She said that she was not aware that she had to file her own application for dispute resolution with the Residential Tenancy Branch in order to make a claim against the security deposit. The landlord said that she intends to file an application for dispute resolution to claim damages from the tenants.

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.

I am satisfied that the tenants provided the landlord with his forwarding address in writing by letter dated July 1st, 2014, and based upon the acknowledgement of the landlord at the hearing, I find that the tenants served the landlord with documents notifying the landlord of this application as required by the *Act*.

The tenants' 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 tenants' application and award them the sum of \$650.00, being double the \$325.00 deposit paid at the start of the tenancy. The tenants are entitled to recover the \$50.00 filing fee for this application for a total claim of \$700.00 and I grant the tenants 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.

As mentioned to the landlord at the hearing, she is at liberty to file her own application for dispute resolution to claim damages from the tenants, but such a claim does not

suspend her obligations with respect to the award in favour of the tenants in this proceeding.

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: January 09, 2015

Residential Tenancy Branch

