



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the tenants' application for a Monetary Order to recover double the security deposit; and to recover the filing fee from the landlords for the cost of this application.

The tenants and landlords attended the conference call hearing and gave sworn testimony. The tenants provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlords confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Order to recover double the security deposit?

Background and Evidence

The parties agreed that this tenancy started on February 01, 2012 for an initial fixed term of one year. The tenancy reverted to a month to month tenancy after that time. Rent for this unit was \$1,500.00 per month and was due on the first day of each month in advance. The tenants paid a security deposit of \$750.00 on February 01, 2012. The tenancy ended on September 15, 2014.

The tenants testified that the landlords failed to return the security deposit within 15 days of receiving the tenants' forwarding address in writing. The tenants testified that the forwarding address was provided to the landlords on September 30, 2014 in the landlords' mail box. The tenants have provided a copy of the letter in documentary evidence. The tenants therefore seek to exercise their rights and recover double the security deposit from the landlords. The tenants testified that the landlords were not given written permission to keep all or part of the security deposit. The tenants testified that written notice to end the tenancy was provided to the landlords on August 11, 2014 and this was placed in the landlords' mail box

The landlords agreed that they did receive the tenants' forwarding address in writing on September 30, 2014. The landlords testified that the tenants had sent the landlords a text message giving notice to end the tenancy and a notice letter was found in the landlords' mail slot on August 30, 2014 when the landlords returned from their vacation. The landlords testified that they kept the security deposit due to late notice being given by the tenants. The landlords testified that they were not aware that they had 15 days to file an application to keep the security deposit.

Analysis

Section 38(1) of the *Residential Tenancy Act (Act)* says that a landlord has 15 days from the end of the tenancy or from the date that the landlord receives the tenants' forwarding address in writing to either return the security deposit to the tenants or to make a claim against it by applying for Dispute Resolution. If the landlords do not do either of these things and do not have the written consent of the tenants to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlords must pay double the amount of the security deposit to the tenants.

Therefore, based on the above and the evidence presented I find that the landlords did receive the tenants' forwarding address in writing on September 30, 2014. As a result, the landlords had until October 15, 2014 to return all of the tenants' security deposit or

file a claim to keep it. As the landlords failed to do so, the tenants have established a claim for the return of double the security deposit to an amount of **\$1,500.00**, pursuant to section 38(6)(b) of the *Act*. There has been no accrued interest on the security deposit for the term of the tenancy.

The tenants are also entitled to recover the **\$50.00** filing fee from the landlords pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,550.00**. The Order must be served on the Respondents and is enforceable through the Provincial Court 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: February 03, 2015

Residential Tenancy Branch

