



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 the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the male tenant and the female landlord.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for return of the security deposit and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began as a for a 2 year fixed term tenancy on August 1, 2012 for a monthly rent of \$1,600.00 due on the 1st of each month with a security deposit of \$800.00 and a pet damage deposit of \$800.00 paid.

The parties agreed the tenancy ended on July 31, 2014. The tenants submit they provided the landlords with their forwarding address by email on August 11, 2014. The tenants provided into evidence a copy of this email as well as the landlords' email response, dated August 12, 2014, to the tenant's request to have the security deposit sent to their forwarding address. The tenant confirmed they have not received either deposit back.

The landlord testified that the yard and decks had not been cleaned at the end of the tenancy. The landlord also submitted that they had had to have their drapes cleaned professionally to remove cat hair and that there was substantial damage to the front door of the rental unit.

The landlord confirmed in her testimony that condition inspections were not completed either at the start or end of the tenancy. The landlord also confirmed that they had not filed an Application for Dispute Resolution seeking to claim against the deposits.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Based on the tenant's undisputed testimony I find the landlords had received the tenants' forwarding address no later than August 12, 2014 and that as result the landlords were required to either return the deposit or file an Application for Dispute Resolution to claim against the deposit no later than August 27, 2014 to be compliant with Section 38(1).

As the landlord confirmed that they have not submitted an Application for Dispute Resolution, I find the landlords have failed to comply with Section 38(1) and as such, the tenants are entitled to double the amount of both deposits, pursuant to Section 38(6).

Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$3,250.00** comprised of \$3,200.00 double the deposits and the \$50.00 fee paid by the tenants for this application.

This order must be served on the landlords. If the landlord fails to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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: April 27, 2015

Residential Tenancy Branch

