



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 the doubled provision of 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 parties provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties 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 month to month tenancy started on May 01, 2014. Rent for this unit was \$1,200.00 per month and was due on the first day of each month in advance. The tenants paid a security deposit of \$600.00 and a pet deposit of \$200.00 on March 30, 2014. The tenancy ended on September 26, 2014.

DA testified that the landlords failed to return the security and pet deposit within 15 days of receiving the tenants' forwarding address in writing. DA testified that the forwarding address was provided to the landlords on September 26, 2014 on the move out condition inspection report. The tenants had to write the address under the section calling for their forwarding address in writing as the landlord had filed in the dispute address in this section of the report. DA testified that the landlords were not given written permission to keep all or part of the security and pet deposit. The landlords had said that everything was good with the unit during the inspection and the tenants would receive their security and pet deposits back. The landlord mentioned the utility bills which had not yet been received and the tenants requested that the landlord sends the tenants a copy of these so they can pay them separately. The landlords did provide copies of these bills and they were paid by the tenants on October 21, 2014.

DA testified that the landlords returned the security and pet deposit of \$800.00 on October 22, 2014. As this is outside the 15 day time frame the tenants seek to exercise their rights and recover the doubling provision of the security and pet deposits to an amount of \$800.00.

JB testified that the tenants' forwarding address was not legible on the move out condition report. The tenants had verbally agreed in text messages that the landlord could hold the security and pet deposit until the utilities were paid. The tenants were secretive about where they were moving to and were told that the landlord needed a forwarding address to return the security and pet deposits. JB testified that they had no intention of keeping the security and pet deposits but they just wanted the utility bills paid.

JB asked the tenants if they had their mail forwarded to their new home. DA testified that they did not need to do a mail forwarding request as they rarely received mail. JB asked the tenants if they sent their forwarding address on their application and that is when the landlords received their proper forwarding address. DA testified that the

forwarding address on the move out report is legible and was their forwarding address at the time.

DA testified that they were not secretive about where they were moving to. As they were going to a town that uses mailboxes they had to have an address first for Canada Post in order to receive a post box address, so they provided the landlord with a forwarding address that belonged to ES's father.

DA testified that their text messages provided in evidence show that they did not give the landlord permission, either verbal or written, to keep the security or pet deposits and the landlord has texted that he is waiting to get the bills squared up before returning the deposits.

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 and pet 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 or pet deposit then pursuant to section 38(6)(b) of the *Act*, the landlords must pay double the amount of the security and pet 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 26, 2014. I have reviewed the address provided on the move out report and find the entire address is legible. As a result, the landlords had until October 11, 2014 to return all of the tenants' security and pet 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. As the landlords have returned \$800.00 I find the tenants are entitled to an amount of **\$800.00** for the doubling provision of the security and pet deposits, 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

For the reasons set out above, I grant the tenants a Monetary Order pursuant to Section 38(6)(b) and 72(1) of the *Act* in the amount of **\$850.00**. This Order must be served on the Respondents and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Respondents fail to comply with the Order.

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 20, 2015

Residential Tenancy Branch

