



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, MNR, MNSD, MNDC, O, FF

Introduction

In the first application the landlord seeks an order of possession, a monetary order for unpaid rent and for damages for loss of rental income resulting from the tenants' alleged repudiation of a fixed term tenancy before the end of the fixed term. She seeks to recover her award from the deposit money she holds.

In the second application the tenants seek to recover a \$525.00 security deposit and a \$400.00 pet damage deposit, both doubled pursuant to s. 38 of the *Residential Tenancy Act* (the "Act").

The landlord did not attend for the hearing.

Issue(s) to be Decided

Has the landlord been served with the tenants' application and notice of hearing? If so, are the tenants entitled the relief requested?

Background and Evidence

On the evidence presented by the attending tenants, the tenancy started in April 2015 for a fixed term of six months. The tenants terminated the tenancy and left May 31, 2015. On that day the parties attended a move-out inspection.

The tenant Ms. R. testifies that at the move-out inspection the landlord was given the tenants' forwarding address in writing. She says the landlord does not have the tenants' written authorization to keep any portion of the deposit.

The landlord made her application on May 25, 2015.

Analysis

As the landlord failed to attend the hearing and the tenants attended and were ready to proceed, the landlord's application is dismissed without leave to re-apply.

The tenants are entitled to recover the \$525.00 security deposit and \$400.00 pet damage deposit as the landlord has not shown an entitlement to keep either of them.

Section 38 of the *Act* imposes certain obligations on a landlord where a tenancy has ended and where the landlord does not have the tenant's written authorization or an arbitrator's order to keep deposit money. The section provides that once a tenancy has ended and once the landlord has received the tenants' forwarding address in writing, the landlord must, within fifteen days, either repay the deposit money or make an application to keep it. If a landlord fails to comply, she must account to her tenant for double the deposit money.

The landlord has complied with s. 38. She made her application against the deposit money even before the fifteen day period commenced to run. The tenants are not entitled to the doubling of their deposit money.

Conclusion

The tenants are entitled to a monetary award of \$925.00 plus recovery of the \$50.00 filing fee. There will be a monetary order against the landlord in the amount of \$975.00.

At hearing the date of the landlord's application was confused with that of the tenants' application, made June 17, 2015, thus the written result varies from the preliminary indication given orally after the hearing.

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 09, 2015

Residential Tenancy Branch

