



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant GW's Application for Dispute Resolution seeking a monetary order. The hearing was conducted via teleconference and was attended by the former tenants only.

Issue(s) to be Decided

Whether the tenant is entitled to a monetary order for all or part of the security deposit; and to recover the filing fee from the landlord 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

GW testified the landlords were sent a copy of the notice of this hearing on March 20, 2015 by registered mail and delivered to the landlord's mailbox on or about May 26, 2015. The tenants GW and JO testified that the registered mail envelope was returned to them as unclaimed roughly three weeks after it was posted. I find that the landlords had been sufficiently served with the notice of hearing documents pursuant to the *Residential Tenancy Act (Act)* five days after sending it by registered mail.

GW testified the tenancy began on September 1, 2014 with a monthly rent of \$ 600.00 due on the 1st of each month and that a security deposit of \$ 300.00 was paid on September 18, 2014. GW testified that the tenancy ended on November 28, 2014

GW provided a copy of a letter sent to the landlords by ordinary mail dated February 18, 2015 providing the landlord with the tenant's forwarding address and requesting the return of the security deposit.

The tenants testified that they had not given the landlords permission to retain nor had the landlords returned any portion of their security deposit to date. The tenants requested compensation amounting to double the security deposit.

Analysis

Section 38(4) states that the landlords may retain an amount from a security deposit or a pet damage deposit if at the end of a tenancy, the tenant agrees in writing that the landlords may retain the amount to pay a liability or obligation of the tenant. As I have no evidence before me that the landlords had any written agreement from the tenant at the end of the tenancy regarding the retention, I find the landlords had no authority to retain any amount from the security deposit.

Section 38(1) of the *Act* stipulates that the landlords must, within 15 days of the end of the tenancy or receipt of the tenant's forwarding address, return the security deposit to the tenant or file an Application for Dispute Resolution to claim against the security deposit for any damage or loss the landlord may have incurred.

I accept the tenancy ended on or before November 28, 2014 and that the tenant provided the forwarding address in writing to the landlords on February 18, 2015. To date the landlords have not complied by returning the deposit or bringing an application for permission to retain any portion thereof.

I find that as the landlords failed to comply with section 38 (1) therefore I award the tenant double the amount of the security deposit held pursuant to section 38(6).

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$ 650.00** comprised of double the security deposit; and the \$50.00 fee paid by the tenant for this application. This decision and order must be served on the landlords. If the landlords fail to comply with this order the tenant 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: August 25, 2015

Residential Tenancy Branch

