



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by the Tenants for: the return of double their security and pet damage deposits; money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement; and, to recover the filing fee from the Landlord.

The Tenants appeared for the hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. There was no appearance for the Landlord during the 24 minute duration of the hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents by the Tenants.

The male Tenant testified that the Landlord was served with a copy of the Application and the Notice of Hearing documents on February 6, 2015 by registered mail to the Landlord's address. The male Tenant provided the Canada Post tracking number into evidence. The Canada Post website indicates that these documents were received and signed for by the Landlord on February 13, 2015. Based on the undisputed evidence of the Tenants, I find the Landlord was served with the documents for this hearing pursuant to Section 89(1) (c) of the Act.

At the start of the hearing, the Tenants indicated that they were in the process of gathering more evidence for their claim for compensation such as a police report. As a result, the Tenants withdrew the portion of their Application requesting monetary compensation for damages in the amount of \$1,500.00. Only the Tenants' claim for the return of their security and pet damages deposits was dealt with in this hearing.

Issue(s) to be Decided

Are the Tenants entitled to the return of double their security and pet damage deposits?

Background and Evidence

The male Tenant testified that this tenancy began on March 1, 2014. A written tenancy agreement was completed for a fixed term tenancy of one year. However, the tenancy ended on December 1, 2014. Rent under the agreement was \$1,000.00 payable on the first day of each month. The Tenants paid the Landlord a \$500.00 security deposit and a \$500.00 pet damage deposit (the "Deposits") in March 2014.

The male Tenant testified that he provided the Landlord with their forwarding address on December 9, 2014, in a letter dated for the same date. The Tenants provided this into written evidence and both Tenants testified that it was served to the Landlord personally. The male Tenant pointed out that the Landlord had signed the letter acknowledging receipt of it. The Tenants testified that the Landlord still retains their deposits and they did not give any written consent to the Landlord to retain them. Therefore, they now seek double the return of the deposits pursuant to the Act.

Analysis

Section 38(1) of the Act states that, within 15 days after the latter of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an Application to claim against it.

I accept the undisputed evidence that this tenancy ended on December 1, 2014. I also accept the Tenants' evidence that they provided the Landlord with a forwarding address in writing on December 9, 2014. This is based on the Landlord's signed acknowledgment on the same letter which verifies receipt by the Landlord.

There is no evidence before me that the Landlord made an Application within 15 days of receiving the Tenants' forwarding address or returned the deposits back to the Tenants. Therefore, I find that the Landlord has failed to comply with Section 38(1) of the Act.

Section 38(6) of the Act stipulates that if a landlord does not comply with Section 38(1) of the Act, the landlord must pay the tenant double the amount of the deposit. Based on the foregoing, I find the Tenants are entitled to double the return of their deposits in the amount of **\$2,000.00**.

As the Tenants have been successful in this matter, I also award the Tenants the filing fee of **\$50.00** pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Tenants is **\$2,050.00**.

The Tenants are issued with a Monetary Order which must be served on the Landlord. The Tenants may then file and enforce this order in the Provincial Court (Small Claims) as an order of that court if the Landlord fails to make payment in accordance with the Tenants' written instructions. Copies of the order are attached to the Tenants' copy of this decision.

Conclusion

The Landlord has breached the Act by failing to deal properly with the Tenants' deposits. Therefore, the Tenants' claim for the return of double their deposits and recovery of the filing fee is granted in the amount of \$2,050.00. The Landlords withdrew the remaining portion of their monetary claim and are at liberty to re-apply.

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 19, 2015

Residential Tenancy Branch

