



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's Application for Dispute Resolution seeking a monetary order.

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

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return 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

The parties agree the tenancy began on March 1, 2015 as a month to month tenancy for a monthly rent of \$800.00 due on the 1st of each month with a security deposit of \$400.00 paid. The parties also agreed the tenancy ended when the tenant vacated the rental unit on March 27, 2015.

The parties agree the landlord received the tenant's forwarding address on April 16, 2015 when it was delivered to the landlord in person. The landlord confirmed she has not filed an Application for Dispute Resolution claiming against the deposit and deducted a per diem rate of \$26.00 against the deposit for 10 days in April when the unit was vacant.

The tenant confirmed the landlord offered, on April 13, 2015, to return \$140.00 for the balance of the security deposit but that he declined the offer because he wanted to wait until his Application for Dispute Resolution to be heard.

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.

While both parties provided testimony regarding the tenant providing a notice to end the tenancy that was less than one month and problems with the heating neither of these issues has any impact on whether or not the landlord dispersed the security deposit in compliance with the requirements under Section 38.

As per the testimony of both parties I find the landlord had the tenant's forwarding address as of April 16, 2015 and as such the landlord was required to either return the security deposit in full or file an Application for Dispute Resolution seeking to claim against the deposit.

As the landlord has not yet filed an Application for Dispute Resolution seeking to claim against the deposit I find the landlord has failed to comply with her obligations under Section 38(1) of the *Act* and the tenant is entitled to double the amount of the security deposit 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 **\$850.00** comprised of \$800.00 double the security deposit and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord. If the landlord fails 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: September 16, 2015

Residential Tenancy Branch

