



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OKINSHAW WATER COMPANY LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover the security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the landlord for the cost of this application.

The tenant and landlord attended the conference call hearing and gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord 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

- Is the tenant entitled to a Monetary Order to recover the security deposit?
- Is the tenant entitled to a Monetary Order for double the security deposit?

Background and Evidence

The parties agreed that this tenancy started on December 01, 2014 for a fixed term period ending on April 30, 2015. The tenancy ended on this date. Rent for this unit was \$1,200.00 per month plus 50 percent of utilities and rent was due on the first day of each month in advance. The tenancy agreement names one tenant and the addendum to the tenancy agreement names another three tenants. The tenants paid a security deposit of \$600.00 on November 15, 2014.

The tenant testified that the landlord failed to return the security deposit within 15 days of receiving the tenant's forwarding address in writing. The tenant testified that the forwarding address was provided to the landlord on May 01, 2015. The tenant testified that the landlord was not given written permission to keep all or part of the security deposit. As the landlord as not returned the security deposit the tenant seeks to recover double the security deposit from the landlord.

The tenant testified that the landlord failed to complete a move in and a move out condition inspection report with the tenants at the start and end of the tenancy and two separate people walked around the unit at the start and end of the tenancy. Therefore, the person who walked around the unit at the end of the tenancy would have no idea what the condition of the unit was at the start of the tenancy. The tenant agreed the landlord had sent the tenant copies of utility bills with a demand for payment but the tenant disputes the amount owed on these bills.

The landlord agreed that they did receive the tenant's forwarding address in writing on May 01, 2015. The landlord agreed the tenants have not provided written permission for the landlord to keep all or part of the security deposit and testified that they kept the security deposit due to damages to the unit, unpaid utilities of \$566.23 and for the cost of wood taken from a neighbour's property which the tenants burnt in an unauthorised fire pit in the yard.

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 tenant's forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If the landlord does not do either of these things and does not have the written consent of one or all of the tenants to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Therefore, based on the above and the evidence presented I find that the landlord did receive the tenant's forwarding address in writing on May 01, 2015. As a result, the landlord had until May 16, 2015 to return all of the tenant's security deposit or file a claim to keep it. As the

landlord failed to do so, the tenant has established a claim for the return of double the security deposit to an amount of **\$1,200.00**, 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 tenant is also entitled to recover the **\$50.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$1,250.00**. The Order must be served on the Respondent. If the Respondent fails to comply with the Order, the Order is enforceable through the Provincial Court 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: October 27, 2015

Residential Tenancy Branch

