



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, MND, MNDC, MNR, MNSD, O, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

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

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for a mutual agreement to end tenancy; to a monetary order for unpaid rent for damage to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 44, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified that her tenancy began in December 2009 with the previous owner of the rental unit as a month to month tenancy for a monthly rent of \$700.00 due on the 1st of each month with a security deposit of \$350.00 paid.

The tenant also testified that she vacated the rental unit on May 18, 2015 and provided the landlords with a letter that she left in the rental unit containing, among other things, her forwarding address. The tenant submitted that she has not received her security deposit from the landlords.

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.

Based on the tenant's undisputed testimony I find the landlords received the tenant's forwarding address on the day the tenancy ended or May 18, 2015. As such, I find the landlord had until June 1, 2015 to either return the tenant's security deposit or file their claim against the deposit. The landlords' Application for Dispute Resolution was submitted to the Residential Tenancy Branch on June 11, 2015.

In the absence of the applicant landlords I dismiss their claim in its entirety and without leave to reapply.

Furthermore, I find that since the landlords failed to file their Application for Dispute Resolution within the 15 days required in contravention of Section 38(1) of the *Act* the tenant is entitled to double the amount of the 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 to the tenant in the amount of **\$700.00** comprised of double the amount of the security deposit.

This 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: November 17, 2015

Residential Tenancy Branch

