



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Tri Power Drywall
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing concerns an application by the tenants for a monetary order as compensation reflecting the double return of the security deposit and pet damage deposit / in addition to recovery of the filing fee. Both tenants attended and gave affirmed testimony. The landlord did not appear.

The tenants testified that the application for dispute resolution and the notice of hearing (the “hearing package”) was served by way of registered mail. Evidence submitted includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the hearing package was “delivered” on September 08, 2015.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenants, I find that the landlord was served with the hearing package in accordance with section 89 of the Act, which addresses **Special rules for certain documents**.

Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy was from March 01, 2014 to February 28, 2015. Following the end of the fixed term, tenancy continued on a month-to-month basis. Monthly rent of \$2,200.00 was due and payable in advance on the first day of each month. A security deposit of \$1,100.00 and a pet damage deposit of \$1,100.00 were collected. A move-in condition inspection report was not completed.

By letter dated June 24, 2015, the tenants gave notice to end tenancy effective July 31, 2015. The letter was sent to the landlord as an email attachment on June 26, 2015. By way of email reply dated June 29, 2015 the landlord acknowledged receipt of the notice. As well, the tenants' letter of June 24, 2015 was hand delivered to the landlord on July 01, 2015.

The parties completed a walk-through of the unit on August 01, 2015. The tenants were left with the impression that the landlord was satisfied with the condition of the unit and that the full security deposit and pet damage deposit would be returned. A move-out condition inspection report was not completed. By text message later that same day, August 01, 2015, the tenants provided the landlord with their forwarding address. With the passage of time, as the tenants did not receive any repayment of either deposit, they filed their application for dispute resolution on September 03, 2015.

Subsequently, the tenants received a cheque from the landlord dated September 04, 2015, made payable in the total amount of \$2,200.00, which reflects the original total amount of both deposits (\$1,100.00 + \$1,100.00).

During the hearing the tenants testified that they do not waive entitlement to compensation reflecting the double return of both deposits, in the event that I find they have established such an entitlement.

Analysis

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit / pet damage deposit, or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit / pet damage deposit, and must pay the tenant double the amount of the security deposit / pet damage deposit.

Based on the documentary evidence and affirmed / undisputed testimony of the tenants, I find that after tenancy ended on July 31, 2015, the tenants provided the landlord with their forwarding address on August 01, 2015. As the landlord did not subsequently repay either deposit until September 04, 2015, which I find is outside the statutory 15 day period, I therefore find that the tenants have established entitlement to the double return of both deposits in the total amount of **\$4,400.00** [(2 x \$1,100.00) + (2 x \$1,100.00)]. As the tenants have already now received repayment of \$2,200.00, I find

that they have established entitlement to recovery of the balance owed of **\$2,200.00** (\$4,400.00 - \$2,200.00).

Finally, as the tenants have succeeded with the principal aspect of their application, I find that they have also established entitlement to recovery of the **\$50.00** filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$2,250.00.00** (\$2,200.00 + \$50.00). Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and 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: March 08, 2016

Residential Tenancy Branch

