



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASSOCIATED PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the tenants' application for a Monetary Order to recover double the security and pet deposits and to recover the filing fee from the landlord for the cost of this application.

The tenant JD and the landlord's agent (the landlord) attended the conference call hearing. The parties gave sworn testimony. The parties provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of the evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure.

Issue(s) to be Decided

- Are the tenants entitled to a Monetary Order to recover double the security and pet deposits?

Background and Evidence

The parties agreed that this tenancy started on June 01, 2014 for a fixed term tenancy of one year, thereafter reverting to a month to month tenancy. The tenancy ended on February 01, 2016. Rent for this unit was \$1,295.00 per month due on the first day of each month in advance. The tenants paid a security deposit of \$647.50.00 and a pet deposit of \$647.50 on May 11, 2014.

JD testified that the landlord failed to return the security and pet deposits within 15 days of receiving the tenants' forwarding address in writing. JD testified that the forwarding address was provided to the landlord on the move out condition inspection report on February 01, 2016, 2015. JD testified that their contract states that they landlord has 15 days to return the deposits or the tenants are entitled to get double the deposits. JD testified that as the landlord has since sent the deposits to the tenants that the tenants seek to recover the doubling provision under the tenancy agreement to an amount of \$1,295.00 plus their filing fee of \$100.00.

The landlord agreed that they did receive the tenant's forwarding address in writing on February 01, 2016. The landlord testified that a cheque was sent to the tenants for the security and pet deposits plus an additional amount to reimburse the tenants for some landscaping materials. This cheque was sent on February 15, 2016. The landlord testified that the tenants contacted the landlord on March 01, 2016 to inform them that they had not received a cheque from the landlord. The landlord testified that she offered to put a stop payment on that cheque and reissue one but the tenants did not respond. The landlord went ahead and reissued a cheque on March 07, 2016 for \$1,366.65 which has now been received and cashed by the tenants.

The landlord testified that she has no evidence to show that the first cheque had been issued and sent on February 15, 2016. The landlord testified that she had asked their accounting department for a copy of the cheque stub but was told it was not readily available. Due to this the landlord does not dispute the tenants' claim to have the security and pet deposit doubled.

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 deposits to the tenant or to make a claim against them by applying for Dispute Resolution. If the landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the deposits then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the deposits to the tenant.

Therefore, based on the above and the evidence presented I find that the landlord did receive the tenants' forwarding address in writing on February 01, 2016. As a result, the landlord had

until February 16, 2016, 2015 to return the tenants' deposits or file a claim to keep them. As the landlord failed to do so and has insufficient evidence to show that a cheque had been issued and mailed to the tenants on February 15, 2016, I find the tenants have established a claim to have the deposits doubled. As the original deposits have now been received by the tenants then I award the tenants the amount of **\$1,295.00** for the doubling provision of the deposits, pursuant to section 38(6)(b) of the *Act*. There has been no accrued interest on the deposits for the term of the tenancy.

The tenants are also entitled to recover the **\$100.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,395.00**. 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: July 27, 2016

Residential Tenancy Branch