



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Li-Car Management Group
and [tenant name suppressed to protect privacy]

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 both tenants.

The tenants testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on January 19, 2016 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed.

I also note that the landlords submitted evidence to the Residential Tenancy Branch in response to the tenant's claim on March 9, 2016.

Based on the testimony of the tenants and the submission of responsive evidence, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for doubling 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 tenants submitted the tenancy began on October 1, 2010 as a month to month tenancy for the monthly rent of \$792.00 due on the 1st of each month with a security deposit of \$387.50. The tenants submitted into evidence a copy of a their Notice to Vacate the rental unit dated March 31, 2016 indicating they intended to move out of the rental unit on April 30, 2015 and providing the landlord with their forwarding address.

The tenants confirmed they moved out of the rental unit by April 30, 2015. The tenants also submitted a copy of the landlord's Application for Dispute Resolution seeking to retain the security deposit that was signed and dated by an agent for the landlord on May 21, 2015.

The tenants confirmed that as a result of that Application a hearing was conducted on January 19, 2016 in which the landlord was granted a monetary order that included the landlord being authorized to apply the security deposit of \$387.50 held to the debt.

The tenants submitted that there was no discussion during that hearing regarding the timing of the landlord's Application or the requirement on the part of the landlord to return the deposit or file a claim against it within 15 days of the end of the tenancy and receipt of the tenant's forwarding address.

The tenants do not seek return of the security deposit rather they seek only the compensation for failure of the landlord to apply within the required 15 days.

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 tenants' undisputed testimony and evidence I find the tenancy ended on April 30, 2015 and that the tenants had provided the landlord with their forwarding address on March 31, 2015. As such, I find the landlord had until May 15, 2015 to file their Application for Dispute Resolution to be compliant with Section 38(1).

As the landlord's Application was dated May 21, 2015 I find the landlords failed to comply with the requirements of Section 38(1) and as a result the tenants are entitled to double the amount of the security deposit paid, pursuant to Section 38(6).

I also note, however, that the landlord was awarded, in the January 19, 2016 hearing to retain the deposit and as such, I reduce the amount granted to the tenant by the full amount of the security deposit.

Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$487.50** comprised of the doubling amount of the security deposit and the \$100.00 fee paid by the tenants for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenants 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: August 30, 2016

Residential Tenancy Branch