



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD FF

Introduction

Both parties attended the hearing and the tenant provided evidence that she had served the landlord with the Application for Dispute Resolution by registered mail and by email with their forwarding address. The landlord agreed they had received them as stated. I find the documents were served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order to return double the security deposit pursuant to Section 38; and
- b) To recover the filing fee for this application.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that they are entitled to the return of double the security deposit according to section 38 of the Act?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to present evidence and make submissions. The tenant who attended gave sworn testimony that she was authorized to speak for all tenants and handle all matters as the others were out of the country or at work. The parties agreed that the tenants had paid a security deposit of \$1800 in May 2016 and the tenants agreed to rent the unit for \$3600 a month (\$600 per occupant). The tenants vacated the unit at the end of October 2016 and provided their forwarding address in writing by email on November 17, 2016. The landlord agreed these facts were correct. The tenant's deposit has never been returned and they gave no permission to retain any of it.

The landlord said they retained the deposit for the tenants had caused about \$300 worth of damages to the unit, mainly in cleaning costs. They had offered to return \$1500 but the tenants had not accepted. They provided substantial evidence to show the damages. However the landlord had not filed an Application to claim against the deposit. They submitted that this should be considered a vacation rental under section 4 which provides the Act would not apply.

I discussed the implications for the parties if my Decision found either section 4 or section 38 of the Act applied. After considering the matter, they negotiated and agreed to settle on the following terms and conditions:

Settlement Agreement:

The landlord will pay the tenants \$1650 plus filing fee of \$100 (total \$1750) in settlement of all matters among the parties in respect to this tenancy.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

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Analysis:

As the parties have settled the matter, I find it unnecessary to consider whether this unit was a vacation unit and section 4 of the Act would apply.

Pursuant to the above noted agreement, I find the tenants entitled to a monetary order for \$1750.00.

Conclusion:

I find the tenants entitled to a monetary order for \$1750 including the filing fee.

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 16, 2017

Residential Tenancy Branch