



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38;
2. A Monetary Order for compensation - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlords did not attend the hearing. I accept the Tenants’ evidence that each Landlord was served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlords are deemed to have received the Materials. The Tenants were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Are the Landlords required to pay the Tenants double the security deposit?

Are the Tenants entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on September 1, 2015 and ended on September 1, 2016. Rent of \$1,000.00 was payable each month. At the outset of the tenancy the Landlord collected \$500.00 as a security deposit. Although the Tenants gave the Landlord a cheque for a pet deposit it was never cashed. The Tenants provided their forwarding address by email on September 15, 2016. Email was the primary method of communication with the Landlords and

on September 17, 2016 the Landlords replied to the Tenant's forwarding address email by stating that the Landlord wanted to keep the security deposit for a scratched floor. At the hearing the Tenant confirmed that it was not waiving the return of double the security deposit. The Landlords have not returned the security deposit and have not made an application claiming against the security deposit.

Analysis

Section 38 of the Act 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 repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Based on the Tenants' undisputed evidence I find that the Landlord received the Tenants' forwarding address, has not returned the security deposit and has not made a claim against the security deposit. As a result I find that the Landlords must now pay the Tenants double the security deposit of \$1,000.00 plus zero interest.

As the Tenants have been successful with their application, I find that the Tenants are entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,100.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,100.00**. If necessary, this order may be 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 *Act*.

Dated: April 03, 2017

Residential Tenancy Branch