



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for the return of double the security deposit pursuant to section 38 and 67 of the Act;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the tenants served the landlord with the notice of hearing package via Canada Post Registered Mail on January 16, 2017. The tenants confirmed that no documentary evidence was submitted. The landlord confirmed that no documentary evidence was submitted. As both parties have attended and have confirmed that no documentary evidence has been submitted, I am satisfied that both parties have been sufficiently served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Are the tenants' entitled to a monetary order for return of double the security and pet damage deposits and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed in their direct testimony that this tenancy began on January 1, 2016 for 1 year fixed term ending on December 31, 2016. The monthly rent was \$1,950.00 payable on the 1st day of each month.

The tenants stated that a \$950.00 security and a \$950.00 pet damage deposits were paid. The landlord stated that a \$1,950.00 combined security and pet damage deposit was paid.

The tenants seek a monetary claim of \$3,900.00 which consists of:

| | |
|----------|--|
| \$950.00 | Return of Original Security Deposit |
| \$950.00 | Return of Original Pet Damage Deposit |
| \$950.00 | Compensation for Failing to Comply Sec. 38 |
| \$950.00 | Compensation for Failing to Comply Sec. 38 |

Analysis and Conclusion

Section 38 of the Act requires the landlord to either return all of a tenant's security or pet damage deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award pursuant to subsection 38(6) of the Act equivalent to the value of the security or pet damage deposit.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed that the landlord pay to the tenants \$500.00 which both parties agreed constituted a final and binding resolution of all monetary issues.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In order to implement the above settlement reached between the parties, I issue a monetary order in the tenants' favour in the amount of \$500.00. I deliver this Order to the tenants in support of the above agreement for use in the event that the landlord does not abide by the terms of the above settlement. The tenants are provided with this

Order in the above terms and the landlord must be served with a copy of this Order as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: June 27, 2017

Residential Tenancy Branch