



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

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

1. An Order for the return of double the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Are the Tenants entitled to return of double the security deposit?

Are the Tenants entitled to recovery of the filing fee?

Background and Evidence

The following are agreed facts: The tenancy, under written agreement, started on May 1, 2017 on a fixed term to end April 30, 2018. Although the Parties did a walkthrough condition inspection no condition inspection report was completed and copied to the Tenants. Rent of \$2,625.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,312.50 as a security deposit. On November 3 or 25, 2017 the Tenants gave notice to end the tenancy for December 31, 2017 and moved out on that date. Although the Parties did a walkthrough condition inspection no condition inspection report was completed and copied to the Tenants. The Tenants did not agree in writing for the Landlord to retain any amount of the security deposit. The Landlord has not returned the security deposit and has not made an application for dispute resolution to claim against the deposit.

Both Parties described the move-out inspection. Tenant JK states that he attended the move-out inspection on January 12, 2018 and that at the end of the inspection the Landlord was provided with the forwarding address in the form of a written letter placed in the hands of the Landlord. The Landlord states that no forwarding address was provided until the Landlord received the Tenant's application and evidence package. Tenant KF states that on January 12, 2018 and prior to the move-out inspection on Tenant JK had sent a copy of the forwarding address to Tenant JK for review. Tenant KF states he has details still on his phone in relation to the review of the forwarding address letter.

The Tenants claim return of double 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. Although the Landlord denies receiving the forwarding address on January 12, 2018 the evidence of each of the Tenants in relation to the drafting and the final copy of the forwarding address letter held a ring of truth. I therefore prefer the Tenant's evidence and find that the Landlord received the Tenants' forwarding address on January 12, 2018. I find that the Landlord then had until January 27, 2018 to make an application to claim against the security deposit or to return the deposit. As the Landlord did neither I find that the Landlord must now pay the Tenants double the security deposit plus zero interest of **\$2,625.00**. As the Tenants have been successful with their claim I find that the Tenants are also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$2,725.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$2,725.00**. 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 *Residential Tenancy Act*.

Dated: September 14, 2018

Residential Tenancy Branch