



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 landlords pursuant to section 72.

The tenant, S.G. attended the hearing via conference call and provided undisputed affirmed testimony. The tenant, S.G. appeared as agent for S.G. The landlords did not attend or submit any documentary evidence. The tenants stated that each of the landlords were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on January 3, 2020. The tenants provided 2 photographs of the Canada Post Customer Receipt and Tracking labels as evidence to confirm service. I accept the undisputed affirmed evidence of the tenants and find that the landlords were properly served as per sections 88 and 89 of the Act. Although the landlords did not attend the hearing, the landlords are deemed served as per section 90.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for return of double the security deposit 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.

The tenants seek a monetary claim of \$1,100.00 which consists of:

\$500.00	Return of Original Security Deposit
\$500.00	Compensation, Sec. 38 (6) Fail to Comply
\$100.00	Filing Fee

The tenants stated that the tenancy ended on June 30, 2018 and that the tenants provided their forwarding address in writing for the return of the \$500.00 security deposit in a letter dated March 6, 2019 via Canada Post Registered Mail. The tenants have submitted a copy of a Canada Post online delivery confirmation which shows that the landlords signed in receipt of the package on March 13, 2019. The tenant also submitted a copy of a handwritten receipt for \$500.00 dated December 23, 2015 for "Damage Deposit..."

During the hearing the tenants stated that they are not aware of any application filed by the landlords to dispute returning the security deposit nor has the tenants given permission to the landlords to retain the security deposit.

Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security and/or pet damage deposit(s) or file for dispute resolution for authorization to retain the security and/or pet damage deposit(s) 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 and/or pet damage deposit(s).

In this case, I accept the undisputed affirmed evidence of the tenants and find that the tenancy ended on June 30, 2018 and the tenants provided their forwarding address in writing for the return of the \$500.00 security deposit via Canada Post Registered Mail on March 13, 2019. The tenants also provided undisputed affirmed evidence that no consent was given to the landlords to retain the security deposit nor have the tenants been served with an application for dispute of its return made by the landlords. The tenants are entitled to return of the original \$500.00 security deposit.

On the tenants request for compensation under section 38 (6), I find based upon the undisputed evidence of the tenants that the landlords failed to comply with section 38(1) of the Act by returning the deposit within 15 days after the tenancy ended or when the landlords received the tenants' forwarding address in writing for return of the security deposit. The tenants are entitled to compensation equal to the \$500.00 security deposit.

The tenants having been successful are also entitled to recovery of the \$100.00 filing fee.

Conclusion

The tenants are granted a monetary order for \$1,100.00.

This order must be served upon the landlords. Should the landlords fail to comply with this order, the order may be filed in the Small Claims Division of the Provincial 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: May 28, 2020

Residential Tenancy Branch