



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

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; and
2. An Order to recover the filing fee for this application - Section 72.

The Parties 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 the security deposit?

Are the Tenants entitled to recovery of the filing fee?

Background and Evidence

The following are agreed or undisputed facts: The tenancy started, without written agreement, on April 1, 2021 and ended on April 15, 2021. At the outset of the tenancy the Landlord collected \$700.00 as a security deposit. Rent of \$1,400.00 was payable on the first day of each month. The Tenants paid the full rent for April 2021. No move-in or move-out inspection reports were completed by the Landlord. The Landlord has not returned the security deposit and has not made an application claiming against the security deposit. At move-out the Landlord offered to return a half of security deposit

and asked to retain the remaining amount against damages to the unit. The Tenants did not agree to any damages or the retention of the security deposit.

The Tenant states that the Landlord was given a copy of the forwarding address on April 15, 2021 by placing the copy in the Landlord's mailbox. The Tenant provides a proof of service with a witness statement of service. The Witness confirms the details of the statement of service. The Landlord states that no forwarding address was received by the Landlord and that they were at their residence at the time and date indicated on the statement of service. The Landlord states that the forwarding address was only found in the contents of the Tenants' hearing package that the Landlord received about a month after the Tenants moved out.

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. Given the Tenant's testimony supported by the statement of service and the Witness testimony, I find on a balance of probabilities that the Tenants did leave the copy of their forwarding address in the Landlord's mailbox on April 15, 2021. As the Landlord did not return the security deposit or make an application to claim against the security deposit, I find that the Landlord must now repay double the security deposit plus zero interest of **\$1,400.00** to the Tenants. 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 **\$1,500.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,500.00**. 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: November 22, 2021

Residential Tenancy Branch