



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing was scheduled to convene at 1:30 p.m. on June 14, 2022 concerning an application made by the tenants seeking a monetary order for return of the security deposit and to recover the filing fee from the landlord for the cost of the application.

One of the tenants attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the landlord joined the call.

The tenant testified that the landlord was served with the Notice of Dispute Resolution Proceeding, all other required documents and evidence by registered mail on November 18, 2021 and has provided a photograph of a large envelope with registered mail stickers from the tenant (CI) to the landlord. One of the stickers contains that date, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

All evidence of the tenants has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlord for all or part or double the amount of the security deposit?

Background and Evidence

The tenant testified that the landlord purchased the rental home from the tenant, and the tenant rented it from the landlord for the month of August, 2021. A copy of the 2nd

page of the Contract of Purchase and Sale has been provided for this hearing which states: "The Buyer agrees to offer the Sellers a Rent-Back for the month of August at a rental rate of \$2,000.00 plus damage deposit." The tenant testified that the damage deposit amount was \$1,000.00, which is corroborated by the Statement of Adjustments, also provided for this hearing, which also contains the names of the parties.

On September 21, 2021 the tenant sent a text message to the landlord asking for return of the damage deposit. The landlord replied that the request must be made in writing, not in a text. On October 18, 2021 the tenant sent a request for return of the damage deposit by registered mail, and a copy of the registered mail envelope has also been provided. It contains the tenants' mailing address. The tenant sent another text message to the landlord on October 18, 2021 with a photograph of the registered mail. The landlord has not responded.

The tenants have also provided a Monetary Order Worksheet claiming \$11.36 for registered mail and \$100.00 for the filing fee.

Analysis

The *Residential Tenancy Act* requires a landlord to return a security deposit or pet damage deposit to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an Application for Dispute Resolution and serve the tenant within that 15 day period. If the landlord fails to do so, the landlord must repay double the amount.

In this case, I am satisfied by the evidence that the tenancy ended on August 31, 2021 and the tenant sent a forwarding address to the landlord by registered mail on October 18, 2021, which is deemed to have been served 5 days later, or October 23, 2021. The landlord then had until November 7, 2021 to make a claim against the security deposit or return it to the tenants. I accept the undisputed testimony of the tenant that the landlord has not returned any portion of the security deposit. If any dispute had been filed by the landlord, it would have been served on the tenant long before now, and I find that no claim has been filed by the landlord. Therefore, I find that the tenants are entitled to double the amount, or \$2,000.00.

The *Act* provides for recovery of the \$100.00 filing fee where a party is successful, but not for recovery of the cost of service or preparing for a hearing. Since the tenants have been successful, the tenants are entitled to recover the filing fee from the landlord.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,100.00.

This order is final and binding and may be enforced.

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 14, 2022

Residential Tenancy Branch