



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the tenant for the return of the security deposit and to recover the cost of filing this application.

Service of the hearing documents was done in accordance with section 89 of the *Act*. They were sent to the landlord by registered mail on June 22, 2009. The landlord confirmed he had received them.

Both parties appeared, gave their testimony, were provided the opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issues(s) to be Decided

- Is the tenant entitled to receive double the security deposit back?
- Is the tenant entitled to recover the filing fee?

Background and Evidence

This tenancy started on May 01, 2006. The rent was \$818.95 per month due on the first of each month. On April 04, 2006 the tenant paid a security deposit of \$ 385.00. The tenant and landlord completed a move in condition inspection report of the rental unit at the start of the tenancy.



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The tenant gave the landlord notice to end the tenancy and moved from the rental unit on March 31, 2009. The landlord and tenant took part in a move out condition inspection on April 02, 2009. The tenant refused to sign the condition report as he did not agree to the landlords' comments as to the condition of the suite. The tenant gave the landlord his forwarding address on March 06, 2009 in a letter which he hand delivered to the landlord and again in his evidence package on or about August 13, 2009.

The landlord testifies that the tenant has left damages in the suite. He testifies that he applied for Dispute Resolution to retain the tenants' security deposit but this was withdrawn because he did not have the tenants forwarding address to send the hearing package to.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the date that the landlord receives the tenants address in writing to either return the security deposit to the tenant at the end of the tenancy or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6) of the *Act*, the landlord must pay double the amount of the security deposit (plus any interest accrued on the original amount) to the tenant.

I find that the landlord did make an application to keep the tenants security deposit but withdrew this as he was not aware that he had received the tenants forwarding address in writing.

I find that the landlord did receive the tenants forwarding address in writing on March 06, 2009 and again on August 13, 2009. I find the landlord did not return the tenants



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security deposit within the 15 days and withdrew the application he made to retain the deposit. Consequently, pursuant to section 38(6) of the *Act*, the landlord must pay the tenant double the amount of his security deposit.

As the tenant has been successful with his application he is also entitled to recover the filing fee of \$50.00 pursuant to section 72(1) of the *Act*. The tenant is entitled to a Monetary Order as follows:

Double the security deposit	\$770.00
Filing fee	\$50.00
Total amount owed to the tenant	\$833.12

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for \$833.12. The order must be served on the respondent and is enforceable through the Provincial Court (Small Claims) 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: August 31, 2009.

Dispute Resolution Officer