



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the tenant for the return of double her security deposit.

The tenant states she served the hearing documents by posting them on the landlords door and these were then retrieved by a person in the landlords' house as the tenant walked away. The landlord confirmed she had received the hearing documents. I am satisfied that the documents although not served in accordance with section 89 of the *Act* have been sufficiently served for the purposes of this *Act*.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

Is the tenant entitled to recover double her security deposit?

Background and Evidence

Both Parties agree that this month to month tenancy started on July 01, 2008 and ended on May 06, 2010. The tenant paid a monthly rent of \$585.00 plus utilities. The tenant paid a security deposit of \$292.50 on August 01, 2008 and a pet deposit of \$292.50 on July 01, 2008. The tenant gave the landlord her forwarding address in writing on May 06, 2010.

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The tenant testifies that the landlord has not returned her security or pet deposits with 15 days of receiving her forwarding address in writing and despite reminders to do so. The tenant states she did receive a cheque from the landlord dated May 31, 2010 for \$184.65 as the return of her deposits after the landlord had made deductions. The tenant states at no time did she authorise the landlord to make any deductions from her security or pet deposit and has returned this cheque to the landlord with her hearing documents.

The landlord states she had been aware of the 15 day period to either return the tenants security and pet deposit or make an application to keep it but had forgotten this rule. The landlord also states that she was confused about the actual move out date as she had given the tenant a Two Month Notice to End Tenancy for May 31, 2010. The landlord states the tenant had not finished cleaning the carpets, had not defleaed the carpets at the end of her tenancy, had not cleaned a toilet or returned the rented carpet shampooer. The landlord states the tenant also owed her last month's utility bill. The landlord states that she deducted these costs from the deposits and returned the remainder to the tenant by cheque. The landlord confirms receipt of this returned cheque.

The tenant states she had cleaned the carpets but the power went off before she had finished cleaning a small area. She states she agreed with the landlord that she would leave the landlord the rented cleaning machine to finish the job. The tenant also states she dropped the product off for the landlord to deflea the carpets, the toilet was stained by mineral deposits in the water and she was prepared to pay her final utility bill after she received the bill from the landlord.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants address in writing to either return the security deposit and pet deposit to the tenant or to make a claim against them 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 and/or pet



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deposit then pursuant to section 38(6) of the *Act*, the landlord must pay double the amount of the security deposit and pet deposit to the tenant.

I find that the landlord did receive the tenants forwarding address in writing on May 06, 2010. As a result, the landlord had until May 21, 2010 to return the tenants security deposit and pet deposit or apply for Dispute Resolution to make a claim against them. I find the landlord did not return either of the deposits and there is no evidence that the landlord filed a claim to keep them. Consequently, pursuant to section 38(6)(b) of the *Act*, the landlord must pay the tenant double the amount of the security deposit to the sum of **\$1,170.00**.

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 **\$1,170.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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: October 22, 2010.

Dispute Resolution Officer