



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, FF

Introduction

This conference call hearing was convened in response to the tenants' application for a Monetary Order for the return of double the security deposit; for money owed or compensation for damage or loss under the Act; and to recover the filing fees associated with this application.

The tenants participated in the hearing and provided affirmed testimony. They testified that they served the Notice of a Dispute Resolution Hearing to the landlord by way of registered mail sent on October 6th, 2010. The landlord did not participate and the hearing proceeded in the landlord's absence.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order, and if so for what amount?

Background and Evidence

The rental unit consists of a two bedroom apartment in a multi-unit complex. Pursuant to a written agreement, the month to month tenancy started on September 29th, 2009 and ended June 30th, 2010. The monthly rent of \$1050.00 was payable on the first of each month. The tenants paid a security deposit in the amount of \$525.00.

The tenants testified that they provided the landlord with written notice to end tenancy with their forwarding address on May 24th, 2010. In their evidence, the tenants produced in part unanswered correspondence to the landlord sent via fax and regular mail, requesting the return of their security deposit.

The tenants made a monetary claim for double the amount of their security deposit totalling \$1050.00, and an additional \$1500.00 in compensation for stress and anxiety.

Analysis

I accept the tenants' undisputed testimony that they served the landlord with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*. I find that the landlord knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 38(1) of the *Residential Tenancy Act* provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the landlord received the tenant's forwarding address in writing. In this matter, that obligation was triggered when the tenancy ended on June 30th, 2010.

Section 38(6) of the *Residential Tenancy Act* provides in part that if a landlord does not comply with his statutory obligation to return the security deposit within 15 days, the landlord must pay the tenant double the amount of the deposit.

Since the landlord did not make an application for dispute resolution within 15 days of the date the tenancy ended, the landlord must pay the tenants double the amount of the security deposit with interest.

The tenants claimed an additional \$1500.00 in compensation. I find no legal basis under the Act to award this amount for stress and anxiety without further evidence to support the quantum of this claim. Therefore I dismiss this portion of their claim.

Conclusion

The interest rate set out by the Residential Tenancy Branch for security deposits paid between 2009 and 2010 was 0.00%. Therefore the tenants' security deposit remains unchanged and they are entitled to double the original amount for the sum of \$1050.00.

Since they were successful, I grant the tenants recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I award the tenants a Monetary Order totalling \$1100.00

This Order may be registered 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 *Residential Tenancy Act*.

Dated: February 04, 2011.

Residential Tenancy Branch