



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call in response to the tenants' application for the return of double the security deposit.

Service of the hearing documents, by the tenants to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on August 19, 2013. Mail receipt numbers were provided in the tenants' documentary evidence. Both parties appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. Both parties provided evidence to the Residential Tenancy Branch and each other prior to this hearing and the parties confirmed receipt of evidence. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Are the tenants entitled to recover double the security deposit?

Background and Evidence

The parties agree that this tenancy started on August 01, 2012 for a month to month tenancy. Rent for this unit was agreed at \$1,400.00 per month and was due on the 1st day of each month. The tenants paid a security deposit of \$700.00 on or about August

01, 2012. Both parties attended a move in and a move out inspection of the unit and the tenants provided a forwarding address in writing on June 29, 2013 on the day the tenancy ended.

The tenant attending testifies that they did not give the landlord written permission to keep all or part of the security deposit and do not agree with the landlords claim that the tenants caused damage to the unit or that the unit was left unclean at the end of the tenancy. The tenant does agree that the landlord has returned \$302.60 of their security deposit on July 16, 2013 but the landlord has withheld the balance of the security deposit. The tenants seek to recover double the security deposit to the amount of \$1,400.00 as the landlord has not returned the security deposit within 15 days of the end of the tenancy.

The landlord testifies that he was not aware he had to file an application to keep all or part of the security deposit. The amount retained was for cleaning and some repairs. The landlord agrees that they sent the tenants a cheque for \$302.60 on July 16, 2013.

Analysis

Section 38(1) of the *Residential Tenancy Act (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 forwarding address in writing to either return the security deposit to the tenant 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)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the tenancy ended on June 29, 2013 and the tenants provided a forwarding address in writing to the landlord on that date. As a result, the landlord had until July 14, 2013 to return the tenants' security deposit of \$700.00 or file an application to keep it. I find the landlord did not return all

the security deposit and has not filed an application to keep it. Therefore, I find that the tenants have established a claim for the return of double the security deposit to an amount of \$1,400.00 pursuant to s. 38(6)(b) of the *Act*, less the amount returned of \$302.60.

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 **\$1,097.40**. 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: November 22, 2013

Residential Tenancy Branch

