



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing was scheduled in response to an application by the tenants for a monetary order reflecting compensation for the double return of the security deposit / and recovery of the filing fee. Both tenants attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the landlord did not appear. Evidence provided by the tenants includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the fixed term of tenancy was from August 15, 2012 to August 31, 2013. Monthly rent of \$800.00 was due and payable in advance on the first day of each month, and a security deposit of \$400.00 was collected. A move-in condition inspection report was not completed.

The tenants testified that they give written notice of their intent to end tenancy effective August 31, 2013. A move-out condition inspection report was not completed.

Within the first several days of September 2013, the tenants provided the landlord with their forwarding address for the purposes of repayment of the security deposit. Later, the landlord informed the tenants that she would be withholding \$50.00 from the security deposit as she considered the oven had not been adequately cleaned. In the result, the landlord repaid only \$350.00 of the original security deposit (\$400.00 - \$50.00). The tenants testified that they expressed their objections to the landlord and informed her that they would be disputing her actions.

Analysis

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit, or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

Based on the affirmed / undisputed testimony of the tenants, I find that the landlord neither repaid the full security deposit, nor filed an application for dispute resolution within 15 days after receiving the tenants' forwarding address within the first several days of September 2013. Accordingly, I find that the tenants have established entitlement to compensation of **\$500.00**, which is calculated as follows:

\$800.00: (2 x \$400.00) *double the original security deposit*
\$50.00: *filing fee*

Sub-total: \$850.00

MINUS: \$350.00 (*amount already repaid*)

Total: **\$500.00**

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$500.00**. Should it be necessary, this order may be served on the landlord, filed 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: January 09, 2014

Residential Tenancy Branch

