



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 convened by way of conference call in response to the tenant's application for a Monetary Order to recover double the security deposit and to recover the filing fee from the landlords for the cost of this application.

Service of the hearing documents, by the tenant to the landlords, was done in accordance with section 89 of the *Act*; served by registered mail on January 28, 2014. Canada Post tracking numbers were provided by the tenant in documentary evidence. The landlords were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlords, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for double the security deposit?

Background and Evidence

The tenant testifies that this tenancy started on July 14 or 15, 2013. Rent was agreed at \$775.00 per month and was due on the 15th day of each month. The tenant paid a security deposit of \$390.00 on or just after the start of the tenancy.

The tenant testifies that his tenancy ended on November 15, 2013 with proper notice and the tenant gave the landlords verbal instructions to return the security deposit to the tenant's work address which the landlords already had at the start of the tenancy. The landlords did not return the security deposit and the tenant had another telephone conversation with the landlords regarding the security deposit. The landlord did not seem to have an issue with returning the security deposit but never kept their word as to its return. The tenant testifies that he has never given the landlord written permission to keep all or part of the security deposit.

The tenant testifies that a letter was sent to the landlord on January 04, 2014 by registered mail with the tenants forwarding address and instructions to return the security deposit to the tenant at the address contained within the letter. The tenant had another telephone conversation with one of the landlords in which the landlord PC asked for the tenants banking information so PC could deposit the security deposit directly into the tenants account. No funds were deposited into the tenants account and despite further attempts to reach the landlords the tenant has been unsuccessful in getting his security deposit back.

The tenant requests a Monetary Order for double the security deposit of \$780.00 in accordance with the *Residential Tenancy Act (Act)* plus the \$50.00 filing fee paid for this application.

Analysis

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 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 landlords did receive the tenants forwarding address in writing on January 09, 2014 as this was sent by registered mail on January 04, 2014 it is deemed to have been served five days later. As a result, the landlords had until January 24, 2014 to return the tenant's security deposit or apply for Dispute Resolution to make a claim against it. I find the landlords did not return the security deposit and have not filed an application for Dispute Resolution to keep the deposit. Therefore, I find that the tenant has established a claim for the return of double the security deposit to an amount of **\$780.00** pursuant to section 38(6)(b) of the *Act*.

I further find the tenant is entitled to recover the **\$50.00** filing fee from the landlords pursuant to s. 72(1) of the *Act*

Conclusion

I HEREBY FIND in favor of the tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$830.00**. The Order must be served on the respondents. Should the respondents fail to comply with the Order the Order may be enforced 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: May 08, 2014

Residential Tenancy Branch

