



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capreit
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDS, MNDC, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenants and their witness.

The tenants testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on March 11, 2014 in accordance with Section 89.

Based on the testimony of the tenants, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the tenancy began in February 11, 2011 as month to month tenancy for a monthly rent of \$1,490.00 (by the end of the tenancy) due on the 1st of each month with a security deposit of \$700.00 paid. The tenancy ended on January 31, 2014

The tenants submit they provided the landlord with their forwarding address when they completed the move out condition inspection. The tenants provided a copy of the Condition Inspection Report confirming the address had been provided to the landlord.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Based on the tenants' undisputed testimony I find the tenancy ended on January 31, 2014 and that the tenants had provided the landlord with their forwarding address on that same date. As such, the landlord at until February 15, 2014 to either file an Application for Dispute Resolution seeking to claim against the deposit or return the security deposit to the tenants in full.

Based on the tenants' undisputed testimony I find the landlord has failed to return the deposit and I have no evidence before me that the landlord had filed an Application for Dispute Resolution to claim against the deposit by February 15, 2014. Therefore, I find the landlord has failed to comply with Section 38(1) and the tenants are entitled to double the amount of the deposit pursuant to Section 38(6).

Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,450.00** comprised of \$1,400.00 double the security deposit and the \$50.00 fee paid by the landlord for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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: June 13, 2014

Residential Tenancy Branch

