



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenant for payment of double the security deposit. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail deemed delivered five days after mailing, the landlords did not appear.

Issue(s) to be Decided

Is the tenant entitled to a monetary order and, if so, in what amount?

Background and Evidence

This tenancy commenced October 1, 1998 as a one year fixed term tenancy and continued thereafter as a month-to-month tenancy. At the start of the tenancy the monthly rent was \$1200.00. The tenant paid a security deposit of \$600.00 sometime before the start of the tenancy.

The tenancy ended May 30, 2014 pursuant to a written notice to end tenancy given by the tenant. The tenant included his forwarding address in the notice to end tenancy.

On June 15 the landlords sent the tenant a payment, to his forwarding address, of \$370.00. The landlords deducted \$300.00 for carpet cleaning. The landlords also appear to have included interest accrued on the deposit at the prescribed rate in the amount of \$70.50. The tenant had not agreed in writing to the deduction from the security deposit and filed this application for dispute resolution.

In mid-July the landlords paid the tenant an additional \$300.00.

Analysis

Section 38(1) of the *Residential Tenancy Act* 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 to the tenant or file an application for dispute resolution claiming against the deposit. In the present

case, the landlords did not refund the full amount or file an application for dispute resolution within the 15 day time period.

Section 38(6) provides that if a landlord does not comply with section 38(1), the landlord must pay the tenant double the amount of the security deposit. The legislation does not allow any flexibility on this issue.

As explained in *Residential Tenancy Policy Guideline 17: Security Deposit and Set Off*, certain amounts are excluded from the amount of the deposit that will be doubled. Partial payments are not one of them.

I find that the tenant is entitled to an order that the landlords pay him the sum of \$600.00, representing double the security deposit plus the interest accrued thereon at the prescribed rate less any payments made ($\$1200.00 + \$70.50 - \$670.00$).

I further order that as the tenant was successful on his application he is entitled to reimbursement from the landlords of the \$50.00 fee he paid to file it. Accordingly, I grant the tenants an order in the amount of \$650.00.

This order does not prevent the landlord from filing a separate application for dispute resolution against the tenants for a monetary order for any damages or cleaning costs that may be proven at that hearing.

Conclusion

A monetary order in favour of the tenant has been made. If necessary, this order may be 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: September 04, 2014

