Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remax Ocean Pacific Realty
and [tenant name suppressed to protect privacy]

DECISION

<u>Dispute Codes</u>   MNSD, FF

<u>Introduction</u>

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 both tenants; the male landlord and the landlords' agent.

At the outset of the hearing I advised both parties that the hearing was based solely on the tenants' Application for return of the security deposit and not to determine the condition of the rental unit at the end of the tenancy. I advised the decision would be based on whether or not the landlords had complied with their obligations regarding the disposition of the security deposit.

While the landlord did provide testimony and evidence on the condition of the rental unit at the end of the tenancy this decision records only evidence and testimony relevant to the tenant's Application. I advised the landlord he remains at liberty, within the limitations set out in the *Residential Tenancy Act (Act)*, to file a claim for any damage to the rental unit by submitting his own Application for Dispute Resolution.

<u>Issue(s) to be Decided</u>

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 landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act.*

<u>Background and Evidence</u>

The tenants provided a copy of a tenancy agreement signed by the parties on July 26, 2013 for a 9 month and 4 day fixed term tenancy beginning on August 27, 2013 for a monthly rent of $2,000.00 due on the 1st of each month with a security deposit of $1,000.00 and a pet damage deposit of $1,000.00 paid. The tenancy ended on May 31, 2014.

The tenants submitted that they provided their forwarding address in writing by completing it on the move out Condition Inspection Report that was completed on May 31, 2014. The landlord or his agent did not dispute this submission. The landlord confirmed the security and pet damage deposits have not been returned to the tenants.

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.

As the tenant's provided the landlord's agent with their forwarding address on the last day of the tenancy, I find the landlord had until June 15, 2014 to either return the deposits in full or to file an Application for Dispute Resolution to claim against the deposits. As the landlord has neither returned the deposits nor filed an Application for Dispute Resolution to claim against the deposits I find the landlord has failed to comply with Section 38(1).

As a result of the landlords' failure to comply with Section 38(1) I find the tenants are entitled to double the amount of both deposits 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 **$4,050.00** comprised of $4,000.00 double the security and pet damage deposit and the $50.00 fee paid by the tenants for this application.

This order must be served on the landlords. If the landlords fail 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: December 02, 2014

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Residential Tenancy Branch