



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNSD

Introduction

This hearing dealt with an application by the tenant for return of his security deposit. The tenant also requested recovery of the filing fee from the landlord. Both parties attended the hearing and had an opportunity to be heard.

At the outset of the hearing the landlord stated that the tenant had named the wrong parties as landlords in his application. The landlord did not deny however that she was, in fact, the landlord. She stated that she would prefer to have the application adjourned so that she could have further time to prepare. I referred to the Rules of Procedure regarding amendments to an application and determined that based on the nature of this application, being one that is straightforward in terms of relevant evidence, I did not believe that prejudice would result to the landlord if an amendment were allowed to put in the proper parties as landlords.

Issue(s) to be Decided

Is the tenant entitled to the requested order?

Background and Evidence

This tenancy began in the summer of 2014 at which time the tenant paid a security deposit of \$325.00. The tenant vacated the rental unit in January 2016 and provided the landlord with his forwarding address in writing (by text) approximately 15 days later. The landlord did not deny receiving this text. To date, the tenant has not received any of his security deposit back from the landlord. The tenant also testified that he did not give any written authorization to the landlord to retain all or any part of his security deposit.

The landlord acknowledged that she was not aware of the requirement that the deposit be returned within 15 days and that they had kept the deposit because the tenant had not given proper notice to end the tenancy and because there was some damage to a wall due to the hanging of guitars. However, the landlord testified that an application for dispute resolution had not been filed against the tenant.

Analysis

Section 38(1) of the *Act* says 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 do one of the following:

- repay any security deposit or pet damage deposit to the tenant with interest; or
- make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) then goes on to say that if a landlord does not comply with the above, the landlord may not make a claim against the deposit(s) and **must pay the tenant double** the amount of the security deposit, pet damage deposit, or both, as applicable.

In the present case, the landlord has not returned the tenant's security deposit and has not filed a claim against the deposit. As a result, the landlord must pay to the tenant double the amount of the deposit in the amount of \$650.00.

Conclusion

I find that the tenant has established a total monetary claim of \$650.00 representing double the security deposit. I find that the tenant is also entitled to recover the \$100.00 filing fee for this application for a total award of \$750.00. 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: October 17, 2016

Residential Tenancy Branch

