



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to order the landlord to return her security deposit and to recover the cost of the filing fee.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on June 29, 2009. Mail receipt numbers were provided in the tenants' documentary evidence. The landlord was deemed to be served the hearing documents on July 04, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form.

There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Did the tenant give her forwarding address to the landlord in writing?
- Is the tenant entitled to recover double her security deposit back?
- Is the tenant entitled to recover her filing fee from the landlord?

Background and Evidence

This tenancy began on February 01, 2009 and ended on April 30, 2009. Rent for this property was \$1,400.00 per month and was due on the 1st of each month. The tenant and her roommate each paid a security deposit of \$700.00 and a key deposit which has been returned by the landlord. The tenants' roommate moved from the property and used her security deposit to off-set her last months rent.

The tenant has provided a signed copy of a move out statement signed by both parties. This states that the landlord and tenant have inspected the condo and no damage has been found. However the tenant has agreed to pay for housekeeping costs to clean the carpet, bathrooms and sinks to the sum of \$75.00 which she has agreed the landlord may deduct from her security deposit. This leaves a balance of \$625.00.

The tenant has provided evidence that she has given the landlord her forwarding address in writing on more than one occasion.

Analysis

The landlord did not appear at the hearing, despite having been sent a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I find that the landlord did receive the tenants forwarding address in writing. The *Residential Tenancy Act* s.38 states;

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

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(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

(6) If a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find in favour of the tenants claim for the return of double of her security deposit. The landlord has received the tenants forwarding address and has not returned the security deposit nor filed an application to retain the deposit. Therefore as stated in s.38 of the Act the tenant is entitled to receive double the original amount back. As the tenant agreed that the landlord could retain \$75.00 to cover the costs of cleaning, this amount will be deducted. As the tenant has been successful with her application she is also entitled to recover the cost of filing this application. A monetary Order has been issued for the following amount:



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Double the security deposit	\$1,400.00
Less the deductions agreed upon	(-\$75.00)
Filing fee	\$50.00
Total amount due to the tenant	\$1,375.00

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,375.00**. The order must be served on the landlord and is enforceable 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: August 19, 2009.

Dispute Resolution Officer