

DECISION

This hearing dealt with an application by the tenant for a monetary order for the amount of the security deposit, applicable accrued interest, double the security deposit, moving costs, and recovery of the filing fee for the cost of the application.

Despite having been served the notice of hearing and application for dispute resolution in accordance with Section 89 of the Residential Tenancy Act (the Act) by registered mail sent on August 24, 2009, the landlord did not attend the hearing.

The tenant claims the request for moving costs is related to the reasons for which the tenant moved – the tenant had multiple issue regarding the landlords' lack of due diligence attending to repairs. Tenant was advised that they had opportunity during the tenancy to apply for dispute resolution for repairs, if necessary - therefore moving costs are not a compensable loss. This portion of the tenant application is dismissed without leave to reapply.

The tenancy began on May 22, 2007. At the outset of the tenancy the tenant paid a security deposit of \$375. The tenancy ended on July 31, 2009. There was no move out inspection requested by the landlord. The tenant provided the landlord with (their) written forwarding address on August 04, 2009 and this was confirmed received by the landlord on August 05, 2009 in an e-mail from the landlord to the tenant, submitted into evidence. The landlord has not returned the security deposit or applied for dispute resolution.

Section 38 of the Residential Tenancy Act provides as follows:

Section 38(1)

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

38(1)(a) the date the tenancy ends, and

38(1)(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

38(1)(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;

38(1)(d) file an application for dispute resolution to make a claim against the security deposit or pet damage deposit.

Further: 38(6) If a landlord does not comply with subsection (1), the landlord

38(6)(a) may not make a claim against the security deposit or any pet damage deposit, and

38(6)(b) **must pay the tenant double the amount of the security deposit**, pet damage deposit, or both, as applicable.

The Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit.

I find that the tenancy ended on July 31, 2009, and that the tenant provided (their) forwarding address in writing on August 04, 2009 and the landlord confirmed receiving it. **I further find** that the landlord has failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing.

I find that the tenant has established a claim for the security deposit of \$375, accrued interest of \$9.12, and double the base amount of the security deposit in the amount of

\$375, for a total of \$759.12. The tenant is also entitled to recover the \$50 filing fee for this application, for a total entitlement of **\$809.12**.

Conclusion

I grant the tenant an Order under Section 67 of the Act for **\$809.12**. 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: December 16, 2009.
