



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution for a monetary order.

The hearing was conducted via teleconference and was attended by the tenant's agent. The landlord did not attend.

The tenant's agent testified that the tenant is currently unable to attend as he is in intensive care in a local hospital.

The agent testified the tenant served the landlord with the notice of this hearing on April 27, 2010 via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed.

Based on the testimony, I find that the landlord has been sufficiently served with the Notice of Hearing documents.

Issues(s) to be Decided

The issue to be decided is whether the tenant is entitled to a monetary order return of double the amount of the security deposit, pursuant to Section 38 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant's agent submits that the tenant entered into a tenancy agreement with the landlord start a tenancy on April 1, 2010 for a monthly rent of \$550.00 and that he provided the landlord with a security deposit in the amount of \$275.00. The agent further submits the tenant later advised the landlord that he would not be moving in but that his roommate was still going to move in and take over the tenancy.

The tenant submitted into evidence a copy of a letter dated March 31, 2010 requesting return of his security deposit and providing the landlord with the tenant's forwarding address.

Analysis

Section 38(1) of the *Act* stipulates that within 15 days of the end of the tenancy and the date the landlord receives the tenant's forwarding address in writing a landlord must return the tenant's security deposit or file an Application for Dispute Resolution to make any claim against the security deposit.

Section 38(6) goes on to say that should the landlord not comply with Section 38(1) the landlord must pay the tenant double the amount of the security deposit. In the absence of any contradictory testimony or evidence I find the landlord has failed to comply with Section 38(1) of the *Act*.

Conclusion

I find that the tenant is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$550.00** comprised of double the amount of the security deposit paid by the tenant.

This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) 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: August 27, 2010.

Dispute Resolution Officer