

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit and the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on November 01, 2008 and ended on May 01, 2010. Prior to moving in the tenant paid a security deposit of \$600.00. The tenant stated that she provided the landlord with her forwarding address on April 28, 2010. On May 20, 2010 the tenant received a cheque for \$1,100.00 which she was unable to cash. The landlord had stopped payment on the cheque because she had made the cheque out for the wrong amount. On June 02, 2010, the tenant applied for dispute resolution.

The landlord did not dispute the above. She stated that she put a stop payment due to the error that she had made on the cheque. She stated that she did not hear back from the tenants until she received the notice of hearing.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

Based on the sworn testimony of both parties, I find that the landlord was notified of the tenant's forwarding address on April 28, 2010 and the tenant moved out on May 01, 2010. I further find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of the end of tenancy and of receiving the tenant's forwarding address. Therefore, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$600.00 and is obligated under section 38 to return this amount along with the accrued interest of \$1.50. The amount that is doubled is the base amount of the deposit which is \$600.00. Since the tenant has proven her case, she is also entitled to the recovery of the filing fee of \$50.00.

Conclusion

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$1,251.50**, which represents double the base security deposit, the accrued interest and the filing fee. 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 19, 2010.

Dispute Resolution Officer