



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and the recovery of the filing fee for this proceeding.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery on August 25, 2010. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of his security deposit?

Background and Evidence

This tenancy started on August 1, 2009, as a month to month tenancy. The tenancy ended December 31, 2009. Rent was \$825.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$412.50 on August 1, 2009.

The Tenant said he gave the Landlord a written 1 month notice to end the tenancy on November 30, 2009. He said he gave it to the Landlord in person, but he did not keep a copy for himself. The Tenant continued to say that he moved all of his belonging out of the rental unit on December 21, 2009 and returned the key to the Landlord on the same day. In addition the Tenant said he gave the Landlord a written forwarding address, first on December 20, 2009 and then again on February 15, 2010. The Tenant said he has not received his security deposit back and he said the Landlord said she would not give it back to him.

The Landlord has not made an application to the Residential Tenancy Branch and she did not attend the hearing on October 25, 2010.

The Tenants said he wants to apply for double the return of a security deposit as the Landlord has not complied with the s. 38 of the *Residential Tenancy Act*.

Analysis

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

- (a) the date the tenancy ends, and
- (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.

And Section 38 (6) says 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 that the Tenant did give the Landlord the correct written notice to end the tenancy on November 30, 2009 and gave the Landlord a written forwarding address on December 20, 2009 and on February 15, 2010. The Landlord did not repay the Tenant within 15 days of the end of the tenancy or after receiving a forwarding address in writing from the Tenant, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and grant an order for double the security deposit of \$412.50 in the amount of \$825.00. As well since the Tenant has been successful in this matter I order the Landlord to pay the filing fee of \$50.00 for this proceeding to the Tenant.

Conclusion



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I find in favour of the Tenant's monetary claim. Pursuant to sections 38, 67, 72
I grant a Monetary Order for \$875.00 to the Tenant. The order must be served on the
respondent 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*.

Dispute Resolution Officer