



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the “hearing package”) by personal delivery on August 17, 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 May 5, 2010, as a month to month tenancy. The tenancy ended May 25, 2010 for the male Tenant. Rent was \$550.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$275.00 on May 10, 2010.

The Tenant said he moved into the rental unit on May 5, 2010. The Tenant explained that Landlord leases units from the owner of the building and then sublets the units to the tenants. The Tenant said his welfare stubs show the security deposit of \$275.00 and the rent of \$550.00 were both paid to the Landlord on his behalf. The Tenant continued to say he was kick out of the rental unit on May 25, 2010, because he had not told the Landlord about his legal issues. He moved out and the female Tenant continued the tenancy. The Tenant said he believes that the female Tenant moved out at the end of the first month, but he was not sure. The Tenant said the Landlord said they would not give him his security deposit back because he didn’t tell them about his legal issues. As a result the Tenant wrote the Landlord on June 21, 2010 giving the Landlord his forwarding address. After this the Tenant still did not receive his security deposit so he applied for dispute resolution with the Residential Tenancy Branch.

The Landlord has not made an application to the Residential Tenancy Branch and they did not attend the hearing on October 26, 2010.

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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 from the Tenant's testimony he did give the Landlord a forwarding address in writing on June 15, 2010. The Landlord did not repay security deposit to 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 \$275.00 in the amount of \$550.00.



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Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 of the Act, I grant a Monetary Order for \$550.00 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