



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD

Introduction

This is the Tenant's application for a Monetary Order for double the amount of the security deposit.

The Tenant gave affirmed testimony at the Hearing.

The Tenant testified that she moved from the rental unit at the end of February, 2010, into another suite at the same rental property (the "Other Suite"), with the same Landlord, on March 1, 2010. The Tenant testified that she moved out of the Other Suite on September 15, 2010, and that the Landlord is no longer her Landlord.

The Tenant testified that she attempted to serve the corporate Landlord with the Notice of Hearing documents at the address they provided for service, but no one at that address was able to tell her who the Landlord was, or where they could be served. The Tenant testified that she left a copy of the Notice of Hearing documents and her evidence package with the assistant manager at the rental property on June 10, 2010, with a witness present. The Tenant stated that the assistant manager told her that he didn't have anything to do with her tenancy in the rental unit and would not accept service on behalf of the Landlord, so she just left the documents with him. She stated that she also sent a copy of the Notice of Hearing documents to the Landlord by regular mail.

Section 89(b) of the Act allows service of Notice of Hearing documents to be effected by leaving a copy of the documents with an agent of the Landlord. I find that the assistant manager is an agent of the Landlord. Based on the affirmed testimony of the Tenant, I

am satisfied that the Tenant personally served the Landlord's agent with the Notice of Hearing documents. Despite being served with the documents, the Landlord did not sign into the teleconference and the Hearing continued in its absence.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order under Section 38(6) of the Act?

Background and Evidence

The Tenant gave the following testimony

The Tenant paid a security deposit in the amount of \$370.00 on February 27, 2008. The Tenant moved out of the rental unit at the end of February, 2010, and moved into the Other Suite on March 1, 2010. When the Tenant moved into the Other Suite on March 1, 2010, she paid another security deposit in the amount of \$450.00, along with the first month's rent in the amount of \$900.00

The Tenant asked the Landlord about her \$370.00 security deposit, and the Landlord said she could pay \$370.00 less for April's rent payment for the Other Suite. The Tenant paid \$530.00 for April's rent (\$900.00 - \$370.00).

Two weeks later, the Tenant received a cheque in the amount of \$370.00 from the Landlord. The Tenant asked the Landlord's agent about the cheque and the Landlord's agent suggested she cash it and give the cash back to the Landlord's agent. The Tenant did so and was not given a receipt. When the Tenant went to pay rent for May, the Landlord's agent told her she still owed \$370.00 for the month of April, 2010.

The Tenant was provided with receipts for rent paid at the rental unit, but not for rent paid at the Other Suite. The Tenant paid rent by cash. The Tenant paid \$900.00 for

rent for each of the months of May, June and July, 2010, and did not pay the additional \$370.00 the Landlord's agent said she owed.

The Tenant moved out of the other suite on September 15, 2010, and provided her forwarding address to the Landlord on September 10, 2010. The Landlord has not returned her security deposit in the amount of \$450.00 for the Other Suite.

Analysis

I asked the Tenant several times about the amounts she paid in rent for each month. I have recorded her verbal testimony as she provided it.

Section 38 of the Act states that the Landlord must return the Tenant's security deposit, or file an Application against the security deposit, within 15 days of the date of the end of the tenancy, or the date the Tenant provides her forwarding address **in writing** (the later of the two dates). The Tenant did not provide evidence that she provided the Landlord with her forwarding address in writing at the end of her tenancy in the rental unit.

The Tenant was credited with the amount she paid (\$370.00) for a security deposit for April's rent in the Other Suite. Therefore, I find that the Tenant's security deposit was returned to the Tenant on April 1, 2010.

The Tenant testified that her security deposit for the Other Suite (\$450.00) had not been returned as of the date of the Hearing. The Tenant's application was with respect to the security deposit for the rental unit (\$370.00). Therefore, I make no order with respect to the \$450.00 security deposit. The Tenant is at liberty to apply against that deposit, should she wish to do so.

Conclusion

The Tenant's application is dismissed.

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: November 01, 2010.
