

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 for the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on September 22, 2010. The tenant filed a receipt with a tracking number. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issue 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 May 01, 2009 and ended on June 30, 2010. The monthly rent was \$350.00 due on the first of each month. Prior to moving in the tenant paid a security deposit of \$175.00. The tenant filed a receipt dated May 01, 2009 for the amount of \$525.00 which represented rent for May 2009 and the security deposit of \$175.00.

On or about July 05, 2010, the tenant visited the landlord and provided her with his forwarding address in writing and requested the return of the security deposit. The landlord advised him that there was some painting work that was required to be done and that she was retaining the security deposit for the cost of doing so. The tenant stated that he did not agree to allow the landlord to retain the security deposit.



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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 the tenant and in the absence of any contradictory evidence, I find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore 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 \$175.00 and is obligated under section 38 to return double this amount. Since the tenant has proven his case, he is also entitled to the recovery of the filing fee of \$50.00.

Overall the tenant has established a claim of \$400.00 which which represents double the base security deposit plus the filing fee.

Conclusion

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$400.00**. 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: January 13, 2011.

Residential Tenancy Branch