



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the tenant to recover double her security deposit and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with s. 89 of the *Act*. They were sent to the landlord by registered mail on October 09, 2009. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing and the hearing proceeded in the landlords' absence.

Both parties were provided the opportunity to present evidence and make submissions. As the landlord did not appear the submissions were made by the tenant. On the basis of the evidence presented at the hearing, a decision has been reached.

Issue(s) to be Decided

- Is the tenant entitled to recover double her security deposit?

Background and Evidence

The Party attending (the tenants mother) testifies that her daughter sought to rent a room from the landlord. Her daughter had to move into the room in September 05, 2010 and paid a security deposit of \$247.50 to the landlord on August 30, 2010. The tenant

has provided a signed receipt that states this is a cash deposit for one bedroom and is refundable to September 07, 2010.

The tenants' mother testifies that the landlord asked for a reference which they provided from the tenants former employer and then he asked for a second reference which was given to him on Friday September 04, 2010. The landlord responded to the tenant by e-mail and thanked her for the reference. After that the tenant could not get hold of the landlord to arrange the move in time and as she had to move in by the next day she had to find alternative accommodation at short notice.

Sometime after the tenant was able to contact the landlord by telephone to ask him to return her security deposit but her mother states he became angry with her because she had rented another room. The tenants' mother has provided a copy of the letter sent to the landlord on September 10, 2010 requesting the return of the security deposit and providing a forwarding address in writing.

The tenants' mother testifies that the landlord has failed to return the security deposit and they have been unable to contact him since that time. The tenant seeks to recover double the security deposit to the sum of \$495.00 plus her \$50.00 filing fee.

Analysis

The landlord did not appear at the hearing to dispute the tenants claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I have carefully considered the tenant documentary evidence and her mother's affirmed testimony before me.

From the evidence presented it is my decision that the landlord did accept a security deposit from the tenant and her mother and as such entered into an agreement to rent the room subject to references. As the tenant provided these references as requested, the landlord failed to respond to the tenants request to move into the room on

September 05, 2010. This left the tenant with no other recourse but to find alternative accommodation.

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on September 11, 2010. As a result, the landlord had until September 26, 2010 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the security deposit and did not file an application to keep it. Therefore, I find the tenant has established a claim for the return of double the security deposit of **\$495.00** pursuant to section 38(6)(b) of the *Act*.

I also find the tenant is entitled to recover the **\$50.00** filing fee from the landlord pursuant to section 72(1) of the *Act*. I find the tenant is entitled to a Monetary Order as follows:

Double the security deposit	\$495.00
Total amount due to the tenants	\$545.00

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$545.00**. The order must be served on the respondents 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*.

Dated: February 01, 2011.

Residential Tenancy Branch