

Decision

Dispute Codes: MNSD

Introduction

This hearing dealt with the tenant's application for return of the security and pet damage deposits combined. The tenant participated in the hearing and gave affirmed testimony. Despite mailing of the application for dispute resolution and notice of hearing to the landlord by way of registered mail, the landlord did not appear. Evidence submitted by the tenant includes the Canada Post tracking number for the registered mailing.

Issue to be decided

- Whether the tenant is entitled to the above under the Act

Background and Evidence

There is no written tenancy agreement in evidence for the tenancy which began on January 15, 2009. Monthly rent was \$850.00. A security deposit of \$425.00 and a pet damage deposit of \$150.00 were collected in the total amount of \$575.00 at the start of tenancy. There is no move-in condition inspection report in evidence.

The tenant testified that she gave the landlord written notice dated on or about April 30, 2010 of her intent to end the tenancy effective at the end of May 2010. There is no move-out condition inspection report in evidence.

After the end of tenancy, by letter to the landlord dated June 5, 2010 the tenant requested the return of her security and pet damage deposits, and provided the landlord with her forwarding address. Thereafter, the landlord did not repay either deposit and both parties filed applications for dispute resolution. However, neither party attended the hearing which was scheduled on November 2, 2010, in response to the respective applications, and both applications were therefore dismissed with leave to reapply.

Analysis

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**, and provides in part as follows:

38(1) 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.

Further, section 38(6) of the Act provides:

38(6) 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.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord neither repaid the deposits, nor pursued an application for dispute resolution within 15 days after being advised in writing of the tenant's forwarding address. Accordingly, pursuant to the above legislative provisions, I find that the tenant has established entitlement to the double return of her security and pet damage deposits in the total amount of \$1,150.00 (2 x \$575.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$1,150.00**. Should it be necessary, this order may be served on the landlord, 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*.

DATE: March 9, 2011

Residential Tenancy Branch

