

DECISION

Dispute Codes: MNSD

Introduction

Application was made by the tenant on February 21, 2011 seeking return of her security deposit in double on the grounds that the landlord did not return it within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address.

Issues to be Decided

This application requires a decision on whether the tenant is entitled to a Monetary Order for the security deposit and whether the amount should be doubled.

Background and Evidence

This tenancy began on August 1, 2010 and ended on December 1, 2011. Rent was \$2,200 per month and the landlord holds a security deposit of \$1,100 paid in instalments early in the tenancy.

The only documentary evidence submitted by the tenant was a copy of a letter sent to the landlord by Express Post on January 21, 2011. The letter states that it is the second attempt in writing for return of \$1,059 of the security deposit, acknowledging a \$41 deduction from it for propane use.

However, the letter does not provide a forwarding address. The tenant stated that she has documentary evidence that she had provided the forwarding address, but at the same time stated she had been reluctant to provide it to the landlord as the two had had an unpleasant relationship at the end of the tenancy.

The landlord stated that she had only recently returned from wintering in Hawaii and had not had time to file an application for damages as she intended to do.

Analysis

Section 38(1) of the *Act* provides that, within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address, the landlord must return the security deposit or make application for dispute resolution to claim upon it.

Section 38(6) of the *Act* states that a landlord who does not comply with section 38(1) "must pay the tenant double the amount of the security deposit..."

An order to return the security deposit in double is a relatively severe remedy and one that requires a substantial degree of proof. In this matter, given that the tenant did not state the address to which the security deposit should be returned in the demand letter submitted into evidence, I cannot find for certain that the landlord had the tenant's forwarding address.

Therefore, I am dismissing this application with leave to reapply. In the event the tenant does not reapply, the landlord has been cautioned that she now has the tenant's forwarding address by virtue of the tenant's application and would be required to return the deposit within 15 days of the date of this decision. If the tenant does reapply and is able to prove she provided the forwarding address as claimed, the landlord would face a possible order to return the deposit in double.

Conclusion

This application is dismissed with leave to reapply.

June 3, 2011