



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover the excess money that she paid to the tenant when she returned the security deposit and for the filing fee.

The notice of hearing was served on the tenant May 19, 2011 by registered mail to the forwarding address provided by the tenant to the landlord. The landlord filed a tracking number. Despite having been served with the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Has the landlord established a claim for the \$850.00 that she returned to the tenant in error? Is the landlord entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on February 01, 2010 and ended on April 30, 2011. The rent was \$850.00 due in advance on the first day of each month. The tenant paid a security deposit in the amount of \$425.00 and a pet deposit in the amount of \$425.00.

The landlord testified that at the time the tenant was moving out on April 30, 2011, they discussed the return of the security deposit. The landlord intended to mail the cheque at a later date, but the tenant requested her to return it immediately as she needed the funds for her new rental unit. The landlord obliged and wrote the tenant a cheque for both the security deposit and the pet deposit. The landlord testified that she post dated the cheque for May 02, 2011 and in error she wrote the cheque for \$1,700.00 instead of \$850.00.

The next day the landlord contacted the tenant to notify her of the mistake and also contacted the bank to put a stop payment on the cheque. However, the tenant had already gone into the bank and cashed the cheque and therefore the bank was unable to assist the landlord.

The landlord filed copies the cashed cheque and copies of receipts of the amounts paid for both deposits. The landlord also filed copied of correspondence between the tenant and herself showing that on May 04, 2011 the tenant agreed to return \$850.00 to the landlord by mailing a cheque to her. By May 12, 2011, the landlord had not received the cheque and made several unsuccessful attempts to contact the tenant.

Analysis

Based on the documentary evidence in front of me and the sworn undisputed testimony of the landlord, I find that the landlord made an overpayment to the tenant in the amount of \$850.00. Prior to filing this application, the landlord made several unsuccessful attempts to contact the tenant and resolve the issue. I find that the tenant is responsible for making good this overpayment. Accordingly, I find that the landlord is entitled to her monetary claim of \$850.00. The landlord has proven her case and is entitled to the recovery of the filing fee. Overall, the landlord has established a claim for the amount of \$900.00.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$900.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order in the amount of **\$900.00**

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: August 25, 2011.

Residential Tenancy Branch