



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, FF*

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of the security deposit and 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 May 24, 2011. 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(s) to be Decided

Is the tenant entitled to the return of the security deposit and the filing fee?

Background and Evidence

The tenancy began on July 01, 2005. The monthly rent was \$800.00. Prior to moving in, the tenant paid a security deposit of \$475.00.

The tenant moved out on May 01, 2011 and gave the landlord her forwarding address on May 01, 2011, in writing along with the key to the rental unit. The tenant testified that this was done by prior arrangement, in the parking lot of a restaurant which was located halfway between the landlord's residence and the rental unit. On May 19, 2011, at the landlord's request, the tenant sent her forwarding address to the landlord by email. The tenant filed copies of emails between the two parties, which demonstrate that at the very latest, the landlord received the forwarding address on May 19, 2011. As of the date of this hearing (August 30, 2011), the tenant has not received her security deposit, has not agreed to any deductions and has also not been served with a notice of application for dispute resolution by the landlord.

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.

I find the landlord failed to repay the security deposit in full, nor did she make an application for dispute resolution to retain a part of the security deposit 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 deposit.

The landlord currently holds a security deposit of **\$400.00** and is obligated under section 38 to return this amount, together with the **\$14.17** in interest which has accrued to the date of this judgment. The amount that is doubled is the base amount of the deposit that the tenant was entitled to, which is **\$400.00**. The tenant has proven her case and is also entitled to the filing fee of **\$50.00**. Accordingly, the tenant has established a claim for a total of **\$864.17**.

Conclusion

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$864.17**. 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: August 30, 2011.

Residential Tenancy Branch