



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 double 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 July 07, 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 double the security deposit and the filing fee?

Background and Evidence

The tenancy began on October 30, 2008 and ended on August 31, 2010. The monthly rent was \$2,120.00. Prior to moving in, the tenant paid a security deposit of \$1,075.00.

The tenant testified that he gave the landlord his forwarding address on the phone and during that conversation, the landlord indicated that the rental unit was in need of repairs and he would get back to the tenant with the cost of repairs. The tenant did not hear back from the landlord. In May 2011, the tenant realized that he needed to provide the landlord with his forwarding address in writing and did so in a letter dated May 24, 2011 sent by regular mail. The tenant filed a copy of this letter

Again, the tenant did not hear back from the landlord and filed this application on July 04, 2011.

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.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord failed to repay the security deposit or make an application for dispute resolution 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 security deposit.

The landlord currently holds a security deposit of \$1,075.00 and is obligated under section 38 to return double this amount (\$2,150.00) plus interest on the base deposit (\$2.78). Since the tenant has proven his claim, he is also entitled to the recovery of the filing fee (\$50.00).

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$2,202.78**. This order may be filed in the Small Claims Court and enforced as an order of that Court

Conclusion

I grant the tenant a monetary order for **\$2,202.78**.

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: October 05, 2011.

Residential Tenancy Branch