



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call in repose to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; an Order to recover double the security deposit and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on April 19, 2012. Mail receipt numbers were provided in the tenant's documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the tenant entitled to recover the security deposit?

Background and Evidence

The tenant testifies that this tenancy started on June 16, 2009. This was a fixed term tenancy for one year and then reverted to a month to month tenancy. Rent for this unit was \$920.00 and was due on the first day of each month. The tenant paid a security deposit of \$450.00 on June 16, 2009.

The tenant testifies that he gave the landlord notice to end the tenancy and moved from the rental unit on October 15, 2011. The tenant testifies that the unit was left in a excellent condition and the tenant did not agree either verbally or in writing that the landlord could keep all or part of the tenants security deposit. The tenant testifies that he gave the landlord his forwarding address in writing on or before October 15, 2011 and the tenant has confirmed the landlord received this address as the landlord has used this forwarding address on documentation sent to the tenant by the landlord.

The tenant has provided a copy of this documentation in which the landlord has stated to the tenant that there is an amount of \$99.54 outstanding. The tenant disputes that there is any money owed to the landlord and states the landlord has provided no explanation as to what this monetary amount is owed for.

The tenant seeks to recover double his security deposit as the landlord has not returned the deposit to the tenant and the landlord has not filed an application to keep the deposit within 15 days.

The tenant testifies that someone was entering his unit prior to the tenant moving out. Cash and goods were stolen and the tenant changed the locks on his unit. The only person who had a key was the landlord or manager of the building. The tenant states he does not hold the landlord responsible for these break-ins but states this is the reason he had to move. The tenant states although he has applied for a monetary order for

money owed or compensation for damage or loss the tenant is not making a monetary claim against the landlord.

Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on October 15, 2011 and the tenancy ended on that date. As a result, the landlord had until October 30, 2011 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the security deposit and has not filed an application for Dispute Resolution to keep the deposit. Therefore, I find that the tenant has established a claim for the return of double the security deposit pursuant to section 38(6)(b) of the *Act*. There has been no accrued interest on security deposit payments from 2009.

I also find the tenant is entitled to recover the **\$50.00** filing fee from the landlord pursuant to section 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$950.00**. The order must be served on

the respondent and is enforceable through the Provincial Court 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: June 13, 2012.

Residential Tenancy Branch