



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call in response to an application made by the tenant for a monetary order for return of all or part of the pet damage deposit or security deposit. The tenant has applied for double the amount of the security deposit pursuant to Section 38 (6) of the *Residential Tenancy Act*.

The tenant attended the conference call hearing, gave affirmed testimony and provided evidence in advance of the hearing. The tenant also called one witness who provided affirmed testimony. However, despite being served with the Tenant's Application for Dispute Resolution, notice of hearing and evidence of the tenant, the landlord did not attend. The landlord provided an evidence package to the Residential Tenancy Branch but not to the tenant.

The tenant provided evidence of having served the landlord by registered mail on May 29, 2012 and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

The testimony of the tenant and the tenant's witness, and all evidence with the exception of the landlord's evidence that was not provided to the tenant, has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of all or part or double the amount of the security deposit?

Background and Evidence

This fixed-term tenancy began on June 1, 2011 and was to expire on August 31, 2012. The tenancy ultimately ended on April 16, 2012 after the landlord had given the tenant a notice to vacate the rental unit. A copy of the notice was provided for this hearing, and

it is not in the approved form, however, the tenant testified that the tenant moved from the rental unit as a result of the notice in any event.

Rent in the amount of \$850.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. At the outset of the tenancy, the landlord also collected a security deposit from the tenant in the amount of \$425.00.

The tenant further testified that the tenant provided the landlord with a written forwarding address on April 28, 2012 by placing a note that day in the landlord's mail box. A copy of the note was provided for this hearing, which is witnessed by another person. The tenant also provided a copy of an envelope and a note which was received by the tenant by regular mail from the landlord. The address on the envelope is the same address provided to the landlord on April 28, 2012. The landlord has not returned the security deposit and the tenant has not been served with an application for dispute resolution claiming against the security deposit by the landlord.

The tenant's witness testified to being present with the tenant when the note was placed in the landlord's mail box on April 28, 2012.

Analysis

The *Residential Tenancy Act* provides that documents served or given by leaving in a mail box or mail slot for the landlord at the address at which the landlord carries on business as a landlord are deemed to have been served 3 days after they are left. The landlord acknowledged receipt of the forwarding address of the tenant, and I find that the landlord is deemed to have received the tenant's forwarding address in writing on May 1, 2012.

Section 38 of the *Residential Tenancy Act* requires that within 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit. I find that the tenancy ended on April 16, 2012 and that the tenant provided a forwarding address in writing to the landlord on April 28, 2012, which is deemed to have been received on May 1, 2012. I further find that the landlord has failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing.

I find that the tenant has established a claim for double the amount of the security deposit in the amount of \$850.00.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant in the amount of \$850.00.

This order is final and binding on the parties and may be enforced.

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: July 25, 2012.

Residential Tenancy Branch