



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, OLC, FF*

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security and pet deposits and for the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord and the property manager, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on June 19, 2012. The tenant provided tracking numbers. 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 March 15, 2011. Rent was \$800.00 payable on the first of each month. Prior to moving in, the tenant paid a security deposit of \$400.00 and a pet deposit of 400.00.

The tenant testified that on April 15, 2012 she gave the landlord notice to end the tenancy effective May 15, 2012. On May 03, 2012, a move out inspection was conducted and the tenant gave the landlord her forwarding address in writing. The tenant stated that when she did not hear back from the landlord within 15 days, she sent the landlord, a text message with her forwarding address. On June 11, 2012, the tenant received a cheque from the landlord for the return of the pet deposit. A note informed the tenant that the security deposit was retained for inadequate notice to end the tenancy.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit and pet 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 and pet deposits 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 and pet deposits.

The landlord received a total of \$800.00 towards the deposits and is obligated under section 38 to return double this amount (\$1,600.00). The tenant has received \$400.00 and therefore the landlord must pay the tenant the balance of \$1,200.00. Since the tenant has proven her claim, she 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 **\$1,250.00**. 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 **\$1,250.00**.

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 21, 2012.

Residential Tenancy Branch