



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 dealt with the tenant's Application for Dispute Resolution seeking a monetary order. The hearing was conducted via teleconference and was attended by the tenant only.

The tenant testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on July 5, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the landlord on the 5th day after it was mailed.

The tenant also testified she checked the tracking information a few days after it was mailed and confirmed the landlord had received the notice of hearing documents. Based on the testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant submitted a copy of a tenancy agreement signed by the parties on August 5, 2003 for a 6 month fixed term tenancy that began on September 1, 2003 and converted to a month to month tenancy on March 1, 2004 for a monthly rent of \$1,200.00 due on the 1st of each month with a security deposit of \$600.00 paid on August 5, 2003.

The tenant testified the tenancy ended on May 15, 2012 and the landlord was provided with her forwarding address prior to the end of the tenancy. The tenant testified the

landlord had provided a cheque in the amount of \$261.26 on June 10, 2012. The tenant has not cashed this cheque at the time of this hearing.

The tenant submitted into evidence a letter from the landlord dated June 9, 2012 where the landlord lists the deposit of \$600.00; interest of \$21.22; payment for patio furniture of \$75.00; and credit for \$200.00 for rental period in May 2012 less cleaning of \$100.00; removal of oil stains in driveway of \$109.96; outstanding rent for May 2012 \$425.00.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

As the landlord had the tenant's forwarding address prior to the end of the tenancy on May 15, 2012, I find he had until May 30, 2012 to either return the tenant's security deposit in full or file an Application for Dispute Resolution seeking to claim against the deposit.

As the landlord has failed to do so, I find the landlord has not complied with Section 38(1) and in accordance with Section 38(6) the tenant is entitled to double the amount of the security deposit.

I also find, as confirmed by the landlord's letter dated June 9, 2012 submitted into evidence by the tenant the landlord also owed the tenant an additional \$75.00 relating to the landlord's purchase of patio furniture from the tenant.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,346.26** comprised of \$1,200.00 double the security deposit; \$21.26 interest on the original security deposit amount; \$75.00 compensation for the purchase of furniture; and the \$50.00 fee paid by the tenant for this application.

I note that at the time of this hearing, the tenant had not cashed the cheque provided by the landlord in the amount of \$261.26 and should she be successful in cashing that cheque I order that this amount will be partial satisfaction of the amount owed.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: September 17, 2012.

Residential Tenancy Branch