



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 in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") for an Order as follows:

1. An Order for return of double the security deposit - Section 38.

The Landlord did not appear at the Hearing. The Tenant states that the application for dispute resolution and Notice of Hearing was sent to the Landlord in Vancouver at the address the Landlord resided at during the tenancy and to the Landlord's father-in-law in Calgary. The Tenant states that the father-in-law received the Notice of Hearing package. The Tenant states further that during the tenancy the father-in-law acted as the Agent for the Landlord by responding to the Tenant's correspondence in relation to the tenancy and by conducting the move-out inspection. Given this information, I find that the father-in-law acted as agent for the Landlord and is therefore qualified to receive the Notice of Hearing. I further find that the Landlord has therefore been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amount claimed?

Background and Evidence

The tenancy began on September 15, 2011 and ended on May 2, 2012. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$825.00. On April 30, 2012 a move-out inspection was conducted and on the same date the Tenant left a written copy of her forwarding address taped to the table in the unit. Despite repeated requests for the return of the security deposit, the Tenant did not receive return of the security deposit until after the application had been filed. The Tenant received a cheque dated August 9, 2012 for the amount of \$825.00. The Landlord did not file an application for dispute resolution to make a claim against the security deposit. The Tenant stated at the hearing that return of double the security deposit was not being waived.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Landlord failed to make an application for dispute resolution claiming against the security deposit, and failed to return the security deposit within 15 days of receipt of the Tenant's forwarding address, I find that the Landlord is required to pay the Tenants double the security deposit in the amount of **\$1,650.00**. Deducting the amount of \$825.00 as already received, the Landlord owes the remaining amount of \$825.00 to the Tenant.

Conclusion

I Grant the Tenant an Order under Section 67 of the Act for the amount of **\$825.00**. If necessary, this order may be filed in the Small Claims Court and 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 Act.

Dated: November 05, 2012.

Residential Tenancy Branch