



Dispute Resolution Services

Page: 1

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 for an Order for the return of double their security deposit. The tenant participated in the conference call hearing and the landlords did not. The tenant presented evidence, inclusive of a registered mail tracking number, that they had served the landlords with the application for dispute resolution and notice of hearing by registered mail on November 06, 2012 and that it had been refused by the recipients and returned to the tenant. The landlords cannot avoid service by refusing to accept registered mail. I found that they had been properly served with notice of the tenant's claim against them and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the tenant entitled to the return of double their security deposit?

Background and Evidence

The tenant's undisputed evidence is as follows. The tenant paid a \$900.00 security deposit at the outset of the tenancy which started in July 2011. The tenancy ended on August 26, 2012 at which time the tenant gave the landlords their forwarding address by e-mail. The tenant provided evidence that on September 26, 2012 they sent the landlord their forwarding address in writing by registered mail, but that it was refused by the landlord and returned.

Analysis

Section 38(1) of the Act provides that the landlord must return the security 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. **Section 90** of the act states that a document sent by mail is deemed received on the 5th day after it is mailed. In this matter the tenant sent their forwarding address in writing by registered mail and the landlord did not accept the registered mail. As a result, I find the landlords received the tenant's forwarding address on October 02, 2012, and I find the landlords failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and are therefore liable under section 38(6)

which provides that the landlords must pay the tenant double the amount of the security deposit.

The landlords currently hold a security deposit of \$900.00 and I find that they are obligated under section 38 to return double this amount. I award the tenant **\$1800.00**.

It must be noted that failure to accept registered mail is not a ground for review.

Conclusion

I grant the tenant an Order under section 67 for **\$1800.00**. This Order may be filed in the Small Claims Court and enforced as an order of that Court.

This Decision is final and binding on both parties.

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: January 22, 2013

Residential Tenancy Branch

