



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

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

The tenant submitted documentary evidence to confirm the landlords were both 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 December 10, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the landlords on the 5th day after it was mailed.

Based on the evidence of the tenant, I find that the landlords have 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 return of the security deposit, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the tenancy began in August 2002 as a month to month tenancy for rent at the end of the tenancy of \$850.00 due on the 1st of each month with a security deposit of \$350.00 paid on September 6, 2002. The tenancy ended on September 30, 2012.

The tenant testified that she provided the landlords with her forwarding address in writing prior to the end of the tenancy and again in a letter dated November 24, 2012. The tenant has not received her security deposit back.

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.

I accept the tenant's undisputed testimony that she provided the landlords forwarding address prior to the end of the tenancy and as such, I find the landlords had until October 15, 2012 to either return the deposit in full or file an Application for Dispute resolution to claim against the deposit.

Therefore I find the landlords have failed to comply with Section 38(1) and the tenant is entitled to return of double the security deposit in accordance with Section 38(6),

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$712.40** comprised of \$700.00 double the amount of the security deposit and \$12.40 interest accumulated on the original deposit since the start of the tenancy.

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: March 07, 2013

Residential Tenancy Branch

