



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, RPP, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for the return of the security deposit; for a an Order for the landlord to return the tenants personal property; and to recover the filing fee from the landlords for the cost of this application.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on February 26, 2013. Mail receipt numbers were provided in the tenant's documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the tenant entitled to recover the security deposit?
- Is the tenant entitled to an Order for the landlord to return the tenants personal property?

Background and Evidence

The tenant's undisputed testimony is that this tenancy started on March 01, 2012 for a month to month tenancy. Rent was \$700.00 per month and was due on the 1st day of each month. The tenant paid a security deposit of \$350.00 on March 01, 2012. The tenancy ended on December 31, 2012 and the tenant gave the landlord a forwarding address in writing on January 06, 2013. The tenant has provided a copy of the tenancy agreement signed by the tenant on March 08, 2012 and by the landlord on March 10, 2012.

The tenant testifies that the landlord has not returned the tenants security deposit at the end of the tenancy. The tenant provided his forwarding address to the landlord and the tenants mailing address did not change. The tenant testifies that he does not waive his right to recover double the security deposit.

The tenant testifies that while the tenancy was ongoing the landlord allowed the tenant to store some of the tenant's furniture in storage. The landlord later tried to charge the tenant for this storage area. The tenant testifies that he did sell one dresser of this stored furniture to the landlord for \$60.00 however the landlord now claims the tenant sold all the bedroom furniture to the landlord.

The tenant testifies that a friend of the tenants saw the landlord remove the tenant's furniture from this storage area. The tenant seeks an Order for the landlord to return the tenants furniture which consists of one dresser with a mirror; a headboard; a mattress; and a bedside table. The tenant testifies that this bedroom furniture is part of a matching set of furniture.

Analysis

The landlord did not appear at the hearing to dispute the tenant's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I have carefully considered the tenant's documentary evidence and sworn testimony before me.

The *Residential Tenancy Act (Act)* states that, if the landlord does not either return the security deposit or apply for dispute resolution within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant double the amount of security deposit.

The landlord has not returned the tenants security deposit or applied for dispute resolution to keep any or all of tenant's security deposit and the time limit in which to apply is now past.

This tenancy ended on December 31, 2012 and the landlord had a forwarding address in writing by January 06, 2013 and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore even though the tenant has not applied for double the security deposit, I am required to order that the landlord must pay double the amount of the security deposit to the tenant to the sum of **\$700.00** pursuant to s. 38(6)9b) of the *Act*.

With regard to the tenant's claim that the landlord has failed to return the tenants personal property namely the tenants matching bedroom furniture and mattress. I find with no evidence to the contrary from the landlord, that the tenant is entitled to an Order for the landlord to return the tenants bedroom furniture.

I HEREBY ORDER the landlord to return the following items to the tenant by a mutually agreed date and time no later than two weeks from the date of receiving this Decision:

I Dresser with mirror
I headboard
I bedside table
I mattress

If the landlord fails to return the tenants personal property within two weeks of the date of this decision the tenant is at liberty to apply for a Monetary Order for compensation for damage or loss of these items.

The tenant is also entitled to recover the **\$50.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenant's monetary claim to recover the security deposit. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$750.00** which comprises of double the security deposit and the filing fee. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ORDER the landlord to return the tenants personal property as documented above within two weeks of receiving this Decision.

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: May 21, 2013

Residential Tenancy Branch

