



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, RR, FF

Introduction

This Dispute Resolution hearing was convened to deal with an Application by the tenant seeking an order for the return of the security deposit retained by the landlord. The tenant had also requested a rent reduction because the landlord failed to supply promised services including parking and an internet connection.

Despite being served by registered mail sent on April 24, 2013, as confirmed by the Canada Post tracking number, the respondent landlord did not appear.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit pursuant to section 38 of the Act?

Background and Evidence

The tenancy began on March 1, 2013. The rent was \$450.00 per month and a security deposit of \$225.00 was paid. No written tenancy agreement was signed. Copies of receipts and copies of communications between the parties were in evidence. The tenant testified that the tenancy ended on March 31, 2013 because the landlord insisted that he tenant move out.

The tenant testified that she provided the landlord with her written forwarding address on March 31, 2013 and when nothing arrived, she sent the landlord a text message reminding her that the tenant wanted the return of her security deposit. Copies of these communications were in evidence. The tenant testified that the landlord failed to return the deposit within 15 days after the tenancy ended and the date that the written forwarding address was given. The tenant is seeking that the landlord refund the security deposit as required under the Act.

Analysis

Section 38 of the Act provides that a security deposit or pet damage deposit must be refunded to the tenant within 15 days after the end of the tenancy and the date that the forwarding address was received, whichever is later.

In the alternative, if the landlord wants to retain the deposit to satisfy a debt or damages, according to the Act, the landlord is required to make a claim against a security deposit by filing an application for Dispute Resolution within 15 days after the end of the tenancy and the date that the forwarding address was received, whichever is later.

I accept the tenant's testimony and evidence verifying that the written forwarding address was received by the landlord on March 31, 2013. I find that the security deposit was not returned within the 15-day deadline under the Act.

Based on the evidence and the testimony, I find that at the end of the tenancy the tenant did not give the landlord written permission to keep the deposit, nor did the landlord subsequently make an application seeking an order to keep the deposit within the 15-day deadline to do so.

Section 38(6) provides that, if a landlord does not comply with the Act by refunding the deposit or making application to retain it within 15 days, the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

In the matter before me, I find that under section 38, this tenant is entitled to be paid double the portion of the security deposit of \$250.00 that was wrongfully retained by the landlord, totalling \$500.00, plus the \$50.00 cost of filing the dispute resolution application.

In regard to the landlord's failure to supply services that were part of the tenancy, I find that the absence of a written tenancy agreement has made interpretation and enforcement of the tenancy terms impossible. Accordingly, I dismiss the tenant's request for a retro-active rent abatement for the parking and internet services.

Based on the evidence before me, I hereby issue a monetary order for \$550.00, in favour of the tenant. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The tenant is successful in her application and is awarded a monetary order for a refund of double the security deposit.

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

