



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, RPP, O

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for return of double the security deposit - Section 38;
2. An Order for the return of the tenant’s personal property – Section 65; and
3. Other.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

The Tenant was asked to clarify the names of the Landlord in the application. The Tenant stated that the Landlord has used various names in different documents and so the Tenant was informed to put the known names of the Landlord in the application. The Landlord provided the correct name and agreed that the application be amended to provide the correct Landlord name. I amended the application accordingly.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began in November 2012 and ended on April 20 or 21, 2013. At the outset of the tenancy, the Landlord collected a security deposit from the Tenants in the amount

of \$250.00. The Tenant states that it provided its forwarding address in writing on April 21 and May 7, 2013. The Landlord states that the forwarding address was not received until May 27, 2013 by registered mail. The Landlord states that the security deposit was not returned as the Tenant owes rental arrears. The Landlord did not make an application claiming against the security deposit for damages to the unit.

The Tenant states that at move-out the Tenant was not able to obtain his 12 inch TV from the garage and asks that the Landlord either return it or provide compensation of \$80.00. The Tenant states that he did not pay for the TV so does not know its cost and that he estimates the value to be \$80.00. The Landlord states that upon receiving the Tenant's application the Landlord looked for this TV but was not able to find it. The Landlord states that the only TVs that size at the unit belong to the Landlord.

The Tenant states that prior to moving out of the unit, the Landlord has served the Tenant with a notice to end tenancy and that although the Tenant has moved out of the unit, and the Tenant still wishes to dispute the notice.

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 Tenant double the security deposit in the amount of **\$500.00**.

In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable

steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Accepting the Tenant's evidence that a small TV was left but noting that the Tenant has not provided any basis for its replacement value or the amount claimed, I dismiss this claim of the Tenant.

As the tenancy has ended and there is no longer a dispute over the ending of the tenancy, I dismiss the Tenant's request to dispute the notice to end tenancy.

Conclusion

I Grant the Tenant an Order under Section 67 of the Act for the amount of **\$500.00**. 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: June 24, 2013

Residential Tenancy Branch

