



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 an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) An Order to return double the security deposit pursuant to Section 38;

SERVICE

The tenant/applicant did not attend the hearing. The landlord attended and provided evidence that the tenant had served him with the Application for Dispute Resolution by registered mail. I find the documents were served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that she is entitled to the return of double the security deposit according to section 38 of the Act?

Background and Evidence

The tenant/applicant did not attend. The landlord attended and said the tenant's name was incorrect on the application as only two surnames were given. This decision is corrected to show the correct tenant's names as verified by her signature line on the application.

The landlord attended the hearing and was given opportunity to be heard, to present evidence and make submissions. He said the tenant owed him for cleaning and for keys but had provided no forwarding address although he has requested it more than once. I advised him to file an application using the tenant's address which she has provided on this application.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

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Analysis:

In most situations, section 38(1) of the Act requires a landlord, within 15 days of the later of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address in writing, to either return the deposit or file an application to retain the deposit. If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the security deposit (section 38(6)).

I find the evidence of the landlord credible that the tenant has never provided him with her forwarding address in writing. The tenant provided no documentary evidence to support her application and did not attend the hearing. Therefore I dismiss this application without leave to reapply.

Conclusion:

I dismiss the tenant's application without leave to reapply.

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: September 04, 2013

Residential Tenancy Branch

