



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, MNDC, FF*

Introduction

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*, for a monetary order for the return of double the security deposit and for the return of rent. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

At the start of the hearing, the landlord informed me that he had received a package by registered mail that contained the notice of hearing and a copy of the tenant's application. The landlord stated that apart from these documents, he had not received any documentary evidence from the tenant. The tenant stated that he had mailed the package that contained his documentary evidence by registered mail and he filed a tracking slip. The tenant acknowledged having received the landlord's evidence.

The rental unit is a duplex and the tenant rented the entire building. During this hearing we discussed the tenant's applications for both units – 836 and 834.

These parties attended a hearing on January 04, 2013. The landlord filed a copy of the decision. The Arbitrator awarded the landlord an order of possession to end the tenancy no later than January 31, 2013 and a monetary order for rent for the period of December 01, 2012 to January 15, 2013.

A portion of the tenant's application is for the return of rent for the period of December 01 to December 17, 2012. Since the issue of rent for December 2012 has already been heard and decided upon, I dismiss this portion of the tenant's application. Accordingly this hearing only dealt with the tenant's application for the return of double the security deposit.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit?

Background and Evidence

The tenancy started approximately 19 years ago. The building is a duplex and the tenant rented both units in the building. The rent at the end of the tenancy was \$1,200.00 per unit. The tenant provided copies of receipts that show that he paid \$500.00 as a security deposit for unit 836 and \$550.00 as a security deposit for unit 834.

The landlord purchased the property in December 2012 and filed a copy of the statement of adjustments. The original owner credited this landlord with an amount of \$904.14 which represented the security deposit of \$800.00 plus accrued interest. A letter from the lawyers who processed the sale, states that the tenant paid \$400.00 as security deposit for each unit.

The tenant moved out on February 01, 2013 without providing the landlord with a forwarding address in writing. The tenant called the landlord around the middle of February, asking for the return of the security deposit. The tenant provided his forwarding address on the phone. On February 17, 2013, the landlord sent a cheque for the amount of \$904.14 to the tenant. The landlord explained that this was the amount provided to him by the previous landlord and represented the security deposit plus interest for both units.

The tenant is claiming the return of double of both the base amount of the security deposit plus interest for both units, with a deduction for the amount already received.

The tenant is claiming the following:

	<u>Unit 836</u>	<u>Unit 834</u>
Security deposit	\$500.00	\$550.00
Interest	\$46.96	\$134.35
Total claim	\$546.96	\$684.35
Double	\$1,093.92	\$1,368.70
Minus amount received	\$452.07	\$452.07
Final claim	\$641.85	\$916.63

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

In this case the tenant provided his forwarding address to the landlord during a phone conversation. The landlord immediately returned the security deposit plus accrued interest that was provided to him by the previous owner. The landlord acted on the information that was recorded in the statement of adjustments, when he purchased the rental unit.

The tenant provided proof of having paid amounts in excess of the information provided to the landlord by the previous owner. Despite having testified that he did not receive the tenant's evidence and therefore did not have documentation to support the tenant's version of what he had paid as security deposits to the previous owner, the landlord agreed to pay the tenant the additional amount of the security deposit plus accrued interest.

Based on the above, I find that the landlord is not liable for the return of double the security deposit for the following reasons:

1. The tenant did not provide a forwarding address in writing
2. The landlord returned the security deposit plus interest in a timely manner
3. The landlord returned the amount based on the information that he received from the previous owner.

However, as agreed to by the landlord and it is also my finding that the landlord must return the additional amount paid by the tenant along with accrued interest as follows:

	Unit 836	Unit 834
Amount paid by tenant	\$500.00	\$550.00
Amount returned to tenant	\$400.00	\$400.00
Difference owed to tenant	\$100.00	\$150.00
Interest	\$9.39	\$14.09
Total owed to tenant	\$109.39	\$164.09

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$273.48**, which represents the amount owed to the tenant for both units, as explained above.

This order may be filed in the Small Claims Court and enforced as an order of that Court

Conclusion

I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act* for the amount of **\$273.48**. This represents the full and final settlement of the return of the security deposits for **both units 836 and 834**.

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: October 25, 2013

Residential Tenancy Branch

