



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

The tenant applies for the return of the tenant's security deposit.

The landlord did not attend the hearing. I accept that the landlord was properly served by way of registered mail. Refusal to accept such mail did not invalidate the deeming provisions as to service.

Issue(s) to be Decided

In most situations, section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address, 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)). The issue in this case is whether the tenant is entitled to the return of the deposit, and whether the doubling provisions apply.

Background and Evidence

This tenancy began July 6, 2013 and ended on August 16, 2013. The tenant paid a security deposit of \$200.00 on or about July 6, 2013, which has not been returned. I accept the tenant's testimony that the landlord was properly provided with the tenant's forwarding address on or about September 6, 2013, and that the tenant did not consent in writing to the landlord retaining the deposit. The landlord has not filed any formal application to retain the deposit.

Analysis

There is no evidence before me that any of the exceptions to the landlord's obligations under section 38(1) apply in this case. There is no evidence that any statutory grounds extinguish the tenant's right to claim the deposit.

Policy Guideline 17 provides that unless the tenant has specifically waived the doubling of the deposit, either on an application for the return of the deposit or at the hearing, the arbitrator will order the return of double the deposit in cases where the landlord has not filed a claim against the deposit within 15 days of the later of the end of the tenancy or the date the tenant's forwarding address is received in writing, and whether or not the

landlord may have a valid monetary claim as against the tenant. In this case the tenant has not waived his right to a doubling of the deposit.

Under these circumstances, I find the tenant entitled to double the deposit, which is \$400.00.

Although requested at the hearing, the tenant has given no notice to the landlord in his application of an intention to claim the filing fee, or any other expenses. In the absence of a formal claim, no further award is appropriate.

Conclusion

The tenant is entitled to double the deposit. A monetary order in the amount of \$400.00, payable by the landlord to the tenant is issued.

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: November 15, 2013

Residential Tenancy Branch