



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit and for the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on August 23, 2013. The tenant filed a receipt with a tracking number. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit and the filing fee?

Background and Evidence

The tenancy began in February 2013 and ended on July 31, 2013. The monthly rent was \$1,200.00. Prior to moving in, the tenant paid a security deposit of \$600.00.

The rental unit consisted of a two bedroom apartment. The tenant rented one bedroom and the landlord occupied the other one. The tenant had her own bathroom and shared the kitchen with the landlord. The tenant did not have information on the ownership of the apartment and there was no written tenancy agreement.

The tenant testified that the landlord retained \$300.00 of the deposit without the consent of the tenant. On August 07, 2013, the tenant provided the landlord with her forwarding address in writing, by registered mail. As of the date of the hearing, the landlord had not contacted the tenant or responded to her request for the return of the deposit

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.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The security deposit paid by the tenant was \$600.00 and the landlord is obligated under section 38 to return double this amount (\$1,200.00) plus interest on the base deposit (\$0.00). Since the tenant has proven her claim, she is also entitled to the recovery of the filing fee (\$50.00).

The tenant has established a claim of \$1,250.00. The tenant has already received \$300.00 and therefore I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for the balance of **\$950.00**. 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 for **\$950.00**.

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 29, 2013

Residential Tenancy Branch

