



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This Dispute Resolution hearing was convened to deal with an Application by the tenant seeking an order for the return of the security deposit retained by the landlord.

Despite being served by registered mail sent on November 19, 2013, as confirmed by a copy of the receipt and Canada Post tracking number, the respondent landlord did not appear.

Issue(s) to be Decided

Is the tenant entitled to the return of the security deposit under section 38 of the Act?

Background and Evidence

The tenancy began in February 2012. The rent was \$900.00 per month and a security deposit of \$450.00 had been paid. The tenancy ended in April 2012.

No copy of the tenancy agreement was in evidence. But the tenant submitted a copy of a letter to the landlord dated October 24, 2013, a photocopy of the security deposit cheque for \$450.00 cashed by the landlord and proof of service data.

The tenant testified that the landlord was provided with their written forwarding address sent on October 24, 2013. The tenant testified that the landlord failed to return the deposit within 15 days after the tenancy ended and the written forwarding address given.

The tenant is claiming a refund of \$900.00 representing double the security deposit, plus the \$50.00 cost of the application.

Analysis

Section 38 of the Act provides that a security deposit or pet damage deposit must be refunded to the tenant within 15 days after the end of the tenancy and the date that the forwarding address was received, whichever is later.

In the alternative, if the landlord wants to retain the security deposit or pet damage deposit satisfy a debt or damages, the landlord is required to make a claim against a deposit by filing an application for Dispute Resolution within 15 days after the end of the tenancy and the date that the forwarding address was received, whichever is later.

I accept the tenant's evidence verifying that the written forwarding address was provided to the landlord in November 2013. I find that the security deposit was not returned within the 15-day deadline under the Act.

Based on the evidence and the testimony, I find that, at the end of the tenancy, the tenant did not give the landlord written permission to keep the deposits, nor did the landlord subsequently make an application to obtain an order to keep the deposit, within the 15-day deadline to do so.

Section 38(6) provides that, if a landlord does not comply with the Act by refunding the deposit or making application to retain it within 15 days, the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit and pet damage deposit.

In the matter before me, I find that under section 38, this tenant is entitled to be paid double the security deposit of \$450.00 that was wrongfully retained by the landlord, and double the \$450.00 security deposit and is thus entitled to a total refund of \$900.00, plus the \$50.00 cost of filing the dispute resolution application.

I hereby issue a monetary order for \$950.00 in favour of the tenant. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The tenant is successful in the application and is awarded a monetary order for a refund of double the security deposit.

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: March 10, 2014

