



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing concerns the tenant's application for a monetary order reflecting the double return of the security deposit / and recovery of the filing fee. The tenant attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the landlord did not appear. Evidence submitted by the tenant includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on April 01, 2013. Monthly rent is \$790.00 and a security deposit of \$395.00 was collected. The tenant testified that a move-in condition inspection report was completed with the original landlord / owner of the property. The tenant further testified that the property was sold shortly after the tenancy began, and "TL" became the new landlord.

The tenant gave notice to end tenancy effective January 31, 2014. On January 29, 2014 the tenant contacted the landlord in order to schedule a move-out condition inspection. The landlord indicated that he was unavailable to do the inspection, and suggested that if the tenant provided his forwarding address, the landlord would repay the security deposit by way of mailing a cheque. The tenant provided his forwarding address later on that same date, January 29, 2014. Ultimately, however, the landlord repaid only \$295.00 of the security deposit, and withheld the balance of \$100.00 as a result of concerns related to garbage bags left behind by the tenant.

Analysis

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord neither repaid the full security deposit, nor filed an application for dispute resolution within 15 days after the end of tenancy which I find is January 31, 2014. Accordingly, I find that the tenant has established entitlement to a net claim of **\$545.00** which is calculated as follows:

\$790.00:	<i>(security deposit of \$395.00 x 2)</i>
<u>\$50.00:</u>	<i>filing fee</i>
\$840.00	

MINUS: **\$295.00** *(amount already repaid)*

Balance owed: **\$545.00**

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$545.00**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order of that Court.

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: June 10, 2014

Residential Tenancy Branch

