



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, MNDC, 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 March 31, 2014, and confirmed by a Canada Post tracking number, the respondent landlord did not appear.

Issue(s) to be Decided

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

Background and Evidence

The tenancy began on November 1, 2013. The rent was \$800.00 per month. A security deposit of \$400.00 and a pet damage deposit of \$200.00 had been paid. The tenant moved out in mid November 2013, but paid rent in full to the end of December 2013.

Submitted into evidence was proof that the landlord failed to pick up the registered mail with the Notice of Hearing, a summary by the tenant, copies of communications and a receipt for carpet cleaning. No copy of the tenancy agreement was in evidence.

The tenant testified that the landlord returned the \$200.00 pet damage deposit and that they had agreed the landlord could keep \$95.00 of the security deposit. The tenant testified that they gave the landlord with a written forwarding address in December 2013 and February 14, 2014 and expected a refund of the remaining \$305.00 of their deposit.

The tenant testified that the landlord failed to return the deposit within 15 days after the tenancy ended and written forwarding address given. The tenant is seeking compensation of double the portion of the security deposit withheld by the landlord.

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 to 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 testimony verifying that the written forwarding address was received by the landlord in December 2013 and February 2014. I find that the remaining security deposit was not returned within the 15-day deadline under the Act.

Based on the evidence, I find that at the end of the tenancy the landlord did not make an application seeking 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 portion of the remaining security deposit of \$305.00 that was wrongfully retained by the landlord and is thus entitled to a total refund of \$610.00 plus the \$50.00 cost of filing the dispute resolution application.

I hereby issue a monetary order for \$660.00 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 her 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: July 21, 2014

Residential Tenancy Branch

