



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for the return of double the security deposit.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Residential Tenancy Act (Act)*; served by registered mail on May 02, 2014. Canada Post tracking numbers were provided by the l/tenant in documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the tenant entitled to recover double the security deposit?

Background and Evidence

The tenant testified that this tenancy started on April 01, 2013 for a fixed term tenancy of 30 days. After this time the tenancy reverted to a month to month tenancy. Rent for

this unit was initially \$1,200.00 per month; however, this was reduced to \$1,150.00 per month on May 01, 2013. The tenant paid a security deposit of \$600.00 on April 01, 2013. The tenant provided a forwarding address in writing to the landlord on December 06, 2013.

The tenant testified that the address the landlord had provided as a service address on the tenancy agreement could not be determined to be a correct address. However the landlord had filed an application recently against the downstairs tenants and had provided a different address on that application. The tenant testified that he used that address when providing his forwarding address in writing along with the address given on the landlord's previous application for file # 816622. The tenant testified that he also used that address when serving the landlords hearing package.

The tenant testified that the landlord had told the tenant that she would return the tenants security deposit at the end of the tenancy on August 31, 2013, however the landlord failed to do so and the tenant testified that he did not give the landlord written permission to keep all or part of the security deposit. The tenant therefore seeks to recover double the security deposit pursuant to s. 38 of the Act.

Analysis

With regard to the landlord's address; I am satisfied that the landlord has been served the tenant's hearing documents to an address the landlord provided for the downstairs tenant on the landlord's application for Dispute Resolution for the hearing held in May, 2014.

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenant's forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit

then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenant's forwarding address in writing on December 11, 2013 five days after posting it on December 06, 2013 pursuant to s. 90(a) of the *Act*. As a result, the landlord had until December 27, 2013 to return the tenant's security deposit or apply for Dispute Resolution to make a claim against it. (The 15th day fell on a holiday so the date reverts to the next business day). I find the landlord did not return the security deposit and has not filed an application for Dispute Resolution to keep the deposit. Therefore, I find that the tenant has established a claim for the return of double the security deposit to an amount of \$1,200.00 pursuant to section 38(6)(b) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$1,200.00**. The Order must be served on the respondent. Should the respondent fail to comply with the Order, the Order may be enforced through the Provincial Court 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: August 01, 2014

Residential Tenancy Branch

