



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

This matter dealt with an application by the Tenant for the return of double the security deposit and for compensation for loss or damage under the Act, regulations or tenancy agreement.

The Tenant's Advocate said they served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on June 6, 2014. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of double his security deposit?

Background and Evidence

This tenancy started on April 1, 2013, as a month to month tenancy. The Tenant's Advocate said it was a verbal agreement the Landlord said there was a written tenancy agreement, but she did not submit it into evidence. Rent was \$700.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$350.00. Both parties agreed the tenancy ended on January 31, 2014. No condition inspection reports were completed on move in or move out.

The Tenant's Advocate said the Tenant moved into the rental unit and found a number of issues with the unit which he advised the Landlord of. The unit and closets were small and there were heating issues in the unit. The Landlord said they made some renovations to the unit to accommodate the Tenant's requests and she believed the Tenant was satisfied with the unit. The Tenant's Advocate continued to say the Tenant could not use the portable heater given to him by the Landlord, because it would blow the breakers in the electrical panel. The Tenant's Advocate said the Tenant decided to move out because of these issues. The Tenant's Advocate said the Tenant gave the Landlord notice at the end of December, 2013 that he was moving out on January 31,

2014. The Landlord said it was not in writing and therefore was not proper notice. The Tenant's Advocate said the Landlord acknowledged the Tenant's notice to end the tenancy in her letter of April 11, 2014.

The Tenant's Advocate continued to say the Tenant gave the Landlord his written forwarding address in a letter dated March 25, 2014 and the Tenant also requested his security deposit to be returned. The Tenant said he has not received his security deposit back and he is requesting double the security deposit be returned as indicated in the Act.

The Landlord said that she had a verbal agreement with the Tenant that they could keep his security deposit for the adjustments and renovations that the Landlord did to the rental unit. The Tenant said he did not agree to this and he wants his security deposit returned as he is paying the Ministry on two security deposits at this time. The Landlord said that she understood that a verbal agreement was good enough to retain the security deposit.

The Landlord has not made an application to the Residential Tenancy Branch.

The Tenant's Advocate said the Tenants wants to apply for double the return of a security deposit as the Landlord has not complied with the s. 38 of the *Residential Tenancy Act*.

Analysis

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find from the Tenant's testimony he did give the Landlord a forwarding address in writing on March 25, 2014. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or after receiving a forwarding address in writing from the Tenant, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and grant an order for double the security deposit of \$350.00 in the amount of \$700.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 of the Act, I grant a Monetary Order for \$700.00 to the Tenant. The order must be served on the respondent and is enforceable 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: October 07, 2014

Residential Tenancy Branch

