



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GATEWAY PROPERTY MANAGEMENT CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the tenant for the return of double the security deposit and the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

This application was initially heard on May 08, 2014. The landlord did not attend the hearing. Upon receipt of the decision, the landlord applied for a review consideration. The decision and order dated May 08, 2014 were suspended pending a review hearing. The review hearing was conducted on this day, October 08, 2014.

Issue to be Decided

Is the tenant entitled to the return of double the security deposit and the filing fee?

Background and Evidence

The tenancy began on July 01, 2013 and ended on October 30, 2013. Prior to moving in, the tenant paid a deposit of \$430.00. The landlord testified that the tenant moved out prior to the end date of the fixed term. The tenant agreed to pay \$200.00 for this breach of contract and the landlord agreed not to pursue any further claims against the tenant.

The tenant stated that he provided the landlord with a forwarding address on October 31, 2013 in writing by placing the key in the landlord's mailbox along a note that contained his forwarding address. The landlord stated that she received the key and the note and filed a copy of the note into evidence. The note does not contain the forwarding address of the tenant. It simply states that the cleaning was done and requests the landlord to phone the tenant when the cheque for the return of the security deposit was ready for pick up.

The landlord stated that she received the tenant's address when she received the notice of hearing. The landlord further testified that she had to call the Residential Tenancy Branch to verify the address as it was incomplete on her copy.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the security deposit.

Based on the testimony of both parties and the documents filed into evidence, I find that the tenant did not provide a forwarding address to the landlord. The tenant testified that he had done so in a note to the landlord but upon review of the note, I find that there is no forwarding address provided. Accordingly I find that the tenant has failed to prove that he provided the landlord with his forwarding address in writing

Since the tenant had not provided the landlord with a forwarding address, the landlord had no way of returning the deposit by mail or making application for damages against it. Therefore I find that the tenant is not entitled to the return of both double the deposit and the recovery of the filing fee paid to make this application.

However, I find that the landlord now has the tenant's forwarding address and must within 15 days of receipt of this decision, return the security deposit of \$430.00. The tenant agreed to a deduction of \$200.00 and therefore the landlord must return \$230.00 to the tenant. I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for \$230.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$230.00**.

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 08, 2014

Residential Tenancy Branch

