



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in repose to the tenant's application for the return of the security deposit.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on May 30, 2014. Mail receipt numbers were provided in the tenant's 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 the security deposit?

Background and Evidence

The tenant testified that this month to month tenancy started on March 01, 2011. Rent for this unit was \$1,500.00 per month. The tenant paid a security deposit of \$750.00 on February 06, 2011.

The tenants testified that they vacated the rental unit on March 28, 2014 although the tenancy did not actually end until March 31, 2014. The tenant testified that she provided a forwarding address to the landlord's agent when they were at the rental unit on March 31, 2014 when the landlord's agent was showing the unit to new tenants. The tenant testified that she wrote the forwarding address on a piece of paper and left it with the keys in the unit.

The tenant testified that she sent the landlord a text message to say that she was in the area the next day and wanted to call round to pick up the security deposit. The landlord did not respond until April 15 when the landlord texted the tenant and said they had some issues with the unit and wanted to meet the tenant. The tenant testified that she had been in complete communication with the landlord during her move out and at no time was a move out inspection completed. The tenant testified that when she moved into the unit the landlord had not completed a move in condition inspection.

The tenant testified that the landlord has never been given written permission to keep all or part of the security deposit and the security deposit has not been returned to the tenant within 15 days of the end of their tenancy. The tenant requested at the hearing to amend their application to recover double the security deposit to the amount of \$1,500.00.

Analysis

The landlord did not appear at the hearing to dispute the tenants claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I have carefully considered the tenants undisputed documentary evidence and sworn testimony before me.

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 tenants 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 this tenancy ended on March 31, 2014 and the landlord did receive the tenants' forwarding address in writing on that date. As a result, the landlord had until April 15, 2013, to return the tenants security deposit or file an application to keep it. I find the landlord did not return the security deposit and has not filed an application to keep it. Therefore, even though the tenant has not applied for double the security deposit, the *Act* requires that I award double the security deposit to the tenant. I therefore find that the tenant has established a claim for the return of double the security deposit to the sum of **\$1,500.00** pursuant to section 38(6)(b) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants amended monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$1,500.00**. The Order must be served on the respondent. If the respondent fails to comply with the Order the Order is enforceable through the Provincial (Small Claims) 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 02, 2014

Residential Tenancy Branch

