



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, RPP, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover double the security deposit; for an Order for the landlord to return the tenant's personal property; and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*; served by registered mail on December 16, 2014. Canada Post tracking numbers were provided by the 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 a Monetary Order to recover double the security deposit?
- Is the tenant entitled to an Order for the landlord to return the tenant's personal property?

Background and Evidence

The tenant testified that this tenancy started on June 01, 2014 for a fixed term that ended on December 01, 2014. Rent for this unit was \$700.00 a month plus utilities of \$75.00. The tenants paid the rent in advance of \$4,200.00 and the utilities of \$450.00. The tenant paid a security deposit of \$350.00 on May 26, 2014. The tenant gave written Notice to end the tenancy as required and vacated the rental unit on November 30, 2014.

The tenant testified that the landlord was given the tenant's forwarding address on the last day of the tenancy November 30, 2014. The landlord agreed the rental unit was left in a good condition although no inspection report was completed and the landlord agreed to return the tenant's security deposit.

The tenant testified that to date the landlord has not returned the security deposit and therefore the tenant seeks to recover double the security deposit to the amount of \$700.00.

The tenant testified that the landlord gave the tenant permission to leave some furniture and belongings at the unit on the day the tenant moved out. The landlord agreed the tenant could return the next day to collect his belongings. When the tenant did return the landlord refused to allow the tenant access to get his belongings. The tenant testified that there were two tables, four chairs, a coffee table, a Sony television set, remote and stand and a coffee maker all left at the unit. The tenant seeks an Order for the landlord to return these belongings to the tenant.

Analysis

I refer the parties to s. 38(1) of the *Act* which 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 undisputed evidence presented I find that this tenancy ended on November 30, 2014 and the landlord received the tenant's forwarding address in writing on that date. As a result, the landlord had 15 days to return the tenant's 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 by December 15, 2014. Therefore, I find that the tenant has established a claim for the return of double the security deposit to the sum of **\$700.00** pursuant to section 38(6)(b) of the *Act*.

With regard to the tenant's undisputed testimony that the landlord has not returned the tenant's belongings located in the unit. When a tenancy ends a tenant must remove all of their belongings from the unit; however, if the landlord has agreed the tenant could return the next day to collect his belongings and then refused the tenant access to their belongings I find the tenant has established a claim for an Order for the landlord to return the tenant's belongings.

I HEREBY ORDER the landlord to return the above mentioned belongings to the tenant by January 31, 2015. If the landlord fails to do so the tenant is at liberty to file a new application for money owed or compensation for damage or loss to recover the cost of the belongings.

As the tenant's claim has merit I find the tenant is entitled to recover the **\$50.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$750.00** pursuant to s. 38(6)(b), s. 67 and s. 72(1) of the *Act*. The Order must be served on the respondent. If the respondent fails to pay the Order, the Order is enforceable through the Provincial Court as an Order of that Court.

I Order the landlord to return the tenant's personal property pursuant to s. 65(1)(e) of the *Act*.

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: January 14, 2015

Residential Tenancy Branch

