



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an application by the tenant for an order for the return of double her security deposit. Both parties participated in the conference call hearing.

Issue to be Decided

Is the tenant entitled to an order for the return of double her security deposit?

Background and Evidence

The parties agreed that the tenancy began on April 7, 2013 at which time the tenant paid a \$300.00 security deposit. They further agreed that the tenant vacated the unit on June 29, 2014. The tenant claimed she gave the landlord her forwarding address in writing on June 29 while the landlord claimed she did not receive it until July 31. The landlord claimed that the tenant did not participate in a condition inspection which was scheduled to take place on July 2. The tenant testified that they had arranged a time to meet at the unit between 4:00 and 5:00 on July 2 and she arrived at 4:30 to find that the landlord was not at the unit. The landlord testified that she was running late that day. The landlord further testified that she did not want to return the deposit until the cable box had been returned and the proper box was not returned until August. She claimed that she had a cheque ready for the tenant on August 12 but the tenant did not pick up the cheque.

The parties agreed that the landlord mailed the tenant a certified cheque for \$300.00 on February 11.

Analysis

Section 38(1) of the Act provides that within 15 days of the end of the tenancy and the date the landlord receives the tenant's forwarding address in writing, the landlord must

either return the deposit or file an application for dispute resolution to retain the deposit. I find that the evidence supports the tenant's testimony that she gave the landlord her forwarding address in writing on July 2 when she attended at the rental unit to do the condition inspection. The landlord acknowledged that the tenant gave her daughter paperwork and there is no evidence before me that the parties had any interaction on July 31, the date the landlord claimed to have received the forwarding address. As I have found that the landlord received the address on July 2, she had until July 17 to either return the deposit in full or file an application to keep it. The landlord did neither.

The landlord alleged that the tenant did not participate in the move out inspection. Section 36(1) provides that if a tenant does not participate in a move out condition inspection, her right to the return of the deposit is extinguished. The landlord's own testimony shows that the landlord is the one who did not arrive at the rental unit at the time scheduled for the inspection and further, the landlord has not proven that she gave the tenant 2 opportunities to schedule a condition inspection as is required by the Residential Tenancy Regulations. I find that the tenant did not extinguish her right to claim against the deposit.

I find that the tenant is entitled to the return of double her deposit. The tenant already has the base amount of the deposit in her hands in the form of a certified cheque. I find she is entitled to an additional \$300.00 pursuant to section 38(6). I award the tenant \$300.00.

Conclusion

The tenant is awarded \$300.00.

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: February 16, 2015

Residential Tenancy Branch

