



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD FF

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) An Order to return double the security deposit pursuant to Section 38; and
- b) To recover the filing fee for this application.

SERVICE

The tenant/applicant did not attend the hearing. The landlord provided sworn evidence that he had received the Application for Dispute Resolution by registered mail on December 24, 2014 approximately (it was filed on December 22, 2015). I find the landlord is served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that she is entitled to the return of double the security deposit according to section 38 of the Act?

Background and Evidence

The tenant/applicant did not attend the hearing. The landlord was given opportunity to be heard, to present evidence and make submissions. The landlord said the tenant had vacated and never provided a forwarding address. He said the first time he saw her new address was when he was served with this Application and he then got advice from the Residential Tenancy Branch.

He said he returned her deposit of \$475 by registered mail within the 15 days allowed by section 38 after receiving this forwarding address. The tenant provided no documentary evidence in support of her claim.

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Analysis:

The Residential Tenancy Act in section 38 requires a landlord, within 15 days of the later of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address in writing, to either return the deposit or file an application to retain the deposit. If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the security deposit (section 38(6)).

I find the landlord's evidence credible that he only received the tenant's forwarding address in writing when he received this Application and he immediately returned her security deposit in full. The tenant did not attend or submit any documents to support her claim.

Conclusion:

I dismiss the Application of the tenant in its entirety without leave to reapply. I find she is not entitled to recover filing fees as I find her Application would not have been necessary if she had provided her forwarding address to the landlord in compliance with section 38 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: March 05, 2015

Residential Tenancy Branch

