



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 the tenant's Application for Dispute Resolution seeking a monetary order. The hearing was conducted via teleconference and was attended by the tenant.

The tenant testified she attempted to serve the landlord with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on September 26, 2014 in accordance with Section 89.

The tenant testified that she knocked on the landlord's door and his minor son answered the door and she attempted to have the son have the landlord, who she saw was present in the home. She further testified the door was closed on her and she posted the package to the door. Based on the testimony of the tenant, I find that the landlord deliberately attempted to avoid service. I accept the tenant took reasonable steps to ensure the landlord was made aware of her claim and the hearing and as such I find the landlord has been sufficiently served with the documents pursuant to Section 71(2)(c) the *Act*.

At the outset of the hearing the tenant clarified that she was not required to pay the filing fee. As such, I find the tenant is not entitled to claim the filing fee and I amend her Application for Dispute Resolution to exclude recovery of the filing fee.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of the security deposit, pursuant to Sections 38, 67, and 72 of the *Act*.

Background and Evidence

The tenant testified the tenancy began as a month to month tenancy in February 2014 for a monthly rent of \$850.00 due on the 1st of each month with a security deposit of \$425.00 paid. The tenant submitted the tenancy ended on August 25, 2014 and that she provided her forwarding address to the landlord in writing by posting it on the door

of the landlord's home on September 1, 2014. The tenant submitted that she has not received her security deposit back as of the date of this hearing.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Based on the tenant's undisputed testimony and allowing 3 days for the landlord to receive the tenant's forwarding address when it was posted on the landlord's door I find the landlord received the tenant's forwarding address on September 4, 2014.

As such, I find the landlord was required to either return the deposit or file an Application for Dispute Resolution to claim against it no later than September 19, 2014. As there is no evidence before me that the landlord has submitted an Application to claim against the deposit and the tenant's undisputed submission that she has not received her deposit back I find the landlord has failed to comply with his obligations under Section 38(1). Therefore, I find the tenant is entitled to double the amount of the deposit pursuant to Section 38(6).

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$850.00** comprised of double the amount of the security deposit.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be enforced 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: April 28, 2015

Residential Tenancy Branch

