



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CHRISTINA INVESTMENTS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, 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 balance of the security deposit, 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 *Residential Tenancy Act (Act)*; served by registered mail on October 25, 2014 and November 07, 2014. Canada Post tracking numbers were provided by the tenant in documentary evidence. The tenant originally served the hearing documents to an address provided by the landlord. This was later returned to the tenant. The tenant then served the landlord to an address shown on the landlord's business cheque. This was accepted by the landlord. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per s. 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 *Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the tenant entitled to recover double the security deposit?

Background and Evidence

The tenant testified that this tenancy started on September 01, 2013 for a fixed term tenancy of one year. Rent for this unit was \$1,350.00 per month due on the 1st day of each month in

advance. The tenant testified that he paid a security deposit of \$675.00 on August 22, 2013. The tenancy ended on September 27, 2014.

The tenant testified that he gave notice to end the tenancy and scheduled a move out inspection on September 27, 2014 with the landlord. The landlord's son came to do the inspection but did not have a copy of the inspection report. The tenant testified that the landlord's son said everything was satisfactory and the tenant would receive his security deposit back. The tenant returned the keys to the landlord's son. Later the tenant returned to the unit to meet with the landlord and the landlord's son. The landlord started to point out some damage in the unit. The tenant disagreed and stated that it was no more than normal wear and tear. The landlord informed the tenant that he was going to pay for the damage and deduct it from the tenant's security deposit. The tenant informed the landlord that he did not give his consent for the landlord to make any deductions from the security deposit.

The tenant testified that he provided the landlord with his forwarding address in writing at that meeting on September 27, 2014 and also put it in the landlord's phone for him. The landlord returned \$315.00 of the tenant's security deposit which was received by the tenant on or about October 15, 2014. The tenant requested a Monetary Order for double the security deposit less the amount returned by the landlord. The tenant also seeks to recover the filing fee of \$50.00.

Analysis

S. 38(1) of the *Residential Tenancy Act (Act)* says that a landlord has 15 days from the end of the tenancy 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 the 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 s. 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Therefore, based on the above and the evidence presented I find that the landlord did receive the tenant's forwarding address in writing on September 27, 2014. As a result, the landlord had until October 12, 2014 to return all of the tenant's security deposit or file a claim to keep it. As the landlord failed to do so and deducted \$360.00 from the security deposit without an Order to

do so or written permission from the tenant, the tenant has established a claim for the return of double the security deposit to an amount of **\$1,350.00**, pursuant to s. 38(6)(b) of the *Act*. As the landlord has returned the amount of \$315.00 I have deducted that from the tenant's claim. The balance due to the tenant is therefore **\$1,035.00**. There has been no accrued interest on the security deposit for the term of the tenancy.

The tenant is also entitled to recover the **\$50.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

Conclusion

For the reasons set out above, I grant the tenant a Monetary Order pursuant to s. 38(6)(b) and 72(1) of the *Act* in the amount of **\$1,085.00**. This Order must be served on the Respondent and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Respondent fails to comply with the Order.

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: June 18, 2015

Residential Tenancy Branch

