



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.

This hearing was originally convened on April 16, 2015 but was adjourned at the request of the tenant to effect service of hearing documents and evidence. This decision must read in conjunction with the interim decision dated April 17, 2015. That decision records that the landlord had not provided a service address other than the address of the rental unit.

The tenant testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on June 11, 2014 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed.

Based on the testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

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 and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

Background and Evidence

The tenant testified the tenancy began on May 2014 for a monthly rent of \$2,200.00 due on the 1st of each month with a security deposit of \$1,100.00 paid. The tenancy ended on August 31, 2015.

The tenant submitted email communication between the tenant and the landlord dated September 5, 2015 arranging for the provision of an e-transfer of funds for return of the security deposit.

The landlord responded to this email advising the tenant that she would be returning only \$586.40 and withholding the balance for carpet cleaning; garbage removal; laundry; and cleaning. The tenant acknowledged receiving the sum of \$586.40.

Analysis

Section 13(e) of the *Act* requires that the landlord provide, in the written tenancy agreement, the address for service and telephone number of the landlord or the landlord's agent. Based on the tenant's undisputed testimony that such an address was not provided I find the landlord is in breach of Section 13(e).

As such, I find the landlord failed to provide a mechanism for the tenant to provide and serve the landlord his forwarding address in writing to an address provided by the landlord for service. In addition, I accept that the parties agreed to use e-transfer for the return of the deposits.

Based on this, I find in this case, pursuant to Section 62 of the *Act*, the tenant was not required to provide the landlord with a mailing address for the purposes of fulfilling the landlord's obligations to return or claim against the security deposit held but rather the provision of details to accept an e-transfer sufficiently meet this criteria.

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 undisputed testimony and evidence of the tenant I find the landlord was provided with the equivalent of the tenant's mailing address on September 5, 2015 and had until September 20, 2015 to either return the deposit, in full, or file an Application for Dispute Resolution to claim against the deposit to be compliant with Section 38(1).

As the landlord returned only \$586.40 and there is no evidence before me that the landlord has filed any Application against the tenant to retain the security deposit I find the landlord has failed to comply with Section 38(1). As a result, I find the tenant is entitled to double the amount of the security deposit, pursuant to Section 38(6) less the amount already returned.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,663.60** comprised of \$2,200.00 double the security deposit and the \$50.00 fee paid by the tenant for this application less \$586.40 already returned by the landlord.

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: June 16, 2015

Residential Tenancy Branch

