



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing concerns the tenant's application for a monetary order as compensation reflecting the double return of the security deposit and pet damage deposit / and recovery of the filing fee. The tenant attended and gave affirmed testimony. The landlord did not appear.

The tenant testified that the application for dispute resolution and the notice of hearing (the "hearing package") was served by way of registered mail. Evidence provided includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered" on February 17, 2015. Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, and in consideration of sections 89 and 90 of the Act which speak, respectively, to **Special rules for certain documents** and **When documents are considered to have been received**, I find that the landlord has been duly served.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy was from May 15, 2013 to May 14, 2014. Following the end of the fixed term, tenancy continued on a month-to-month basis. Monthly rent of \$1,150.00 was due and payable in advance on the 15th day of each month. A security deposit of \$575.00 and a pet damage deposit of \$575.00 were collected. A move-in condition inspection report was not completed.

Following notice given by the tenant by email dated October 29, 2014, tenancy ended January 15, 2015. A move-out condition inspection report was not completed.

Subsequent to the end of tenancy, by email dated January 27, 2015 the tenant provided the landlord with his forwarding address for the purposes of repayment of his security deposit and pet damage deposit. However, to date, no portion of either deposit has been repaid to the tenant.

Analysis

At the outset, the attention of the parties is drawn to the following sections of the Act:

Section 23: **Condition inspection: start of tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

Further to the above, section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit / pet damage deposit, or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit / pet damage deposit, and must pay the tenant double the amount of the security deposit / pet damage deposit.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord neither repaid the security deposit / pet damage deposit, nor filed an application for dispute resolution, within 15 days after being informed by the tenant of his forwarding address on January 27, 2015.

In the result, pursuant to the statutory provisions set out above, I find that the tenant has established entitlement to the double return of the deposits as claimed in the total amount of **\$2,300.00** [(2 x \$575.00) + (2 x \$575.00)]. As the tenant has succeeded with the principal aspect of his application, I find that he has also established entitlement to recovery of the **\$50.00** filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$2,350.00** (\$2,300.00 + \$50.00). Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and 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: August 24, 2015

Residential Tenancy Branch

