



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TOWN AND COUNTRY REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by the Tenant for double the return of the security deposit, and to recover the filing fee from the Landlord.

The Tenant appeared for the hearing along with her mother who acted as her agent. They both provided affirmed testimony. However, there was no appearance for the Landlord during the 15 minute duration of the hearing. Therefore, I turned my mind to the service of documents by the Tenant for this hearing.

The Tenant testified that she served the Landlord with a copy of the Application and the Notice of Hearing documents by registered mail on April 1, 2015. The Tenant provided the Canada Post tracking number into oral evidence. The Tenant's mother testified that the Canada Post website indicates that these documents were signed for and received on April 2, 2015.

Based on the undisputed evidence of the Tenant and her mother, I find that the Landlord was served with the documents for this hearing in accordance with Section 89(1) (c) of the *Residential Tenancy Act* (the "Act"). The hearing continued to hear the undisputed oral evidence of the Tenant and her mother.

Issue(s) to be Decided

Is the Tenant entitled to the return of double the security deposit?

Background and Evidence

The Tenant testified that this tenancy began on September 1, 2012 and ended on April 30, 2014. The Tenant testified that a tenancy agreement was completed but a copy was not provided to her by the Landlord. Rent in the amount of \$1,400.00 was payable on

the first day of each month. The Tenant paid the Landlord a \$700.00 security deposit in the middle of August 2012 which the Landlord still retains.

The Tenant testified that at the end of the tenancy she provided the Landlord with her forwarding address in writing on a piece of paper which she personally handed to the Landlord. The Tenant testified that despite repeated reminders to the Landlord for the return of her security deposit and repeated promises by the Landlord that it would be mailed to the forwarding address provided, no monies have been returned to her.

The Tenant and her mother testified that the Landlord has confirmed on numerous occasions that she has the Tenant's forwarding address. The Tenant also confirmed that she had not given consent to the Landlord to keep the security deposit or make deductions from it. Therefore, the Tenant now seeks double the return of the security deposit pursuant to the Act.

Analysis

In the absence of the Landlord appearing for this hearing or providing documentary evidence to dispute the evidence presented during the hearing, I make the following findings based on the balance of probabilities.

Section 38(1) of the Act states that, within 15 days after the latter of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an Application to claim against it.

I accept the undisputed oral evidence of the Tenant that this tenancy ended on April 30, 2014. I also accept the undisputed evidence of the Tenant that she provided the Landlord with a forwarding address in writing at the end of the tenancy by serving it pursuant to Section 88(a) of the Act.

There is no evidence before me that the Landlord made an Application within 15 days of receiving the Tenant's forwarding address or returned the security deposit back to the Tenant. Therefore, I find that the Landlord has failed to comply with Section 38(1) of the Act.

Section 38(6) of the Act stipulates that if a landlord does not comply with Section 38(1) of the Act, the landlord must pay the tenant double the amount of the deposit. Based on the foregoing, I find the Tenant is entitled to double the return of the security deposit in the amount of **\$1,400.00**.

As the Tenant has been successful in this matter, I also award the Tenant the filing fee of **\$50.00** pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Tenant is **\$1,450.00**.

The Tenant is issued with a Monetary Order which must be served on the Landlord. The Tenant may then file and enforce this order in the Provincial Court (Small Claims) as an order of that court if the Landlord fails to make payment in accordance with the Tenant's written instructions. Copies of the order are attached to the Tenant's copy of this decision.

Conclusion

The Landlord has breached the Act by failing to deal properly with the Tenant's security deposit. Therefore, the Tenant's claim for the return of double the security deposit and recovery of the filing fee is granted in the amount of \$1,450.00.

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: September 08, 2015

Residential Tenancy Branch

