



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 reflecting the double return of the security deposit and the pet damage deposit, in addition to recovery of the filing fee. The tenant's agent attended and gave affirmed testimony. The landlord did not appear.

The tenant's agent testified that the application for dispute resolution and the notice of hearing ("hearing package") was served on the landlord by way of registered mail to his residential address, as well as to his work address. Evidence submitted by the tenant includes the Canada Post tracking numbers for both items of registered mail. The Canada Post website informs that, by way of the landlord's signature, the hearing package was "successfully delivered" to the landlord's residential address on April 23, 2015. The Canada Post website also informs that, by way of what is presumably the signature of an agent acting on behalf of the landlord, the hearing package was "successfully delivered" to the landlord's work address on April 23, 2015.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant's agent, I find that the landlord has been duly served in accordance with section 89 of the Act which addresses **Special rules for certain documents**.

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, a copy of which is not in evidence, the tenancy began in November 2014. Monthly rent was due and payable in advance on the first day of each month. A security deposit of \$425.00 and a pet damage deposit of \$200.00 were collected. There is no evidence of a move-in condition inspection report having been completed. Tenancy ended April 30, 2015. While the parties did a walk-through inspection of the unit together on May 01, 2015, there is no evidence of a move-out condition inspection report having been completed.

Documentary evidence indicates that the parties had established a routine of communicating with each other by way of text messages. Evidence includes copies of several text messages exchanged between the parties following the end of tenancy, in particular regard to the landlord's repayment of the tenant's security deposit and pet damage deposit. However, the

landlord did not commit to any particular meeting time or place with the tenant for the purpose of repayment of both deposits. Ultimately, by text message dated June 26, 2015, the tenant informed the landlord of her forwarding address for the purposes of repayment of both deposits. To date, however, neither deposit has been repaid.

Analysis

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's agent, I find that the landlord has neither repaid either deposit, nor filed an application for dispute resolution, within 15 days after being informed by the tenant of her forwarding address on June 26, 2015. In the result, I find that the tenant has established entitlement to the double return of both deposits in the total amount of **\$1,250.00** [2 x (\$425.00) + 2 x (\$200.00)].

As the tenant has succeeded with the principal aspect of her application, I find that she 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 **\$1,300.00** (\$1,250.00 + \$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: September 28, 2015

Residential Tenancy Branch

