



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD

Introduction

This hearing concerns an application by the tenants for a monetary order reflecting compensation for repayment of the security deposit / in addition to reimbursement of a “rent advancement of last month’s rent.” The tenants attended and gave affirmed testimony. The landlord did not appear.

The tenants testified that the application for dispute resolution and the notice of hearing (the “hearing package”) was served by way of registered mail. Evidence submitted by the tenants includes the Canada Post tracking number for the registered mail. The Canada Post website informs that the hearing package was “accepted at the Post Office” on April 24, 2015, and that on April 27, 2015 a notice card was left, informing the landlord of “where item can be picked up.” Ultimately, the item was unclaimed by the landlord and the Post Office undertook to initiate steps for return of the hearing package to the tenants.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenants, I find that the landlord has been duly served in accordance with 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**.

Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is one of what are several different rooms rented within a house. It is understood that the landlord rents the entire house from the owner, and sublets the rooms to others. It is also understood that the landlord (who is not the owner) also resides in the house.

Further to the online application itself, documentary evidence before me is limited to the Canada Post tracking number for service of the hearing package, as well as the receipt for payment issued by the Post Office.

There is no written tenancy agreement for the tenancy which lasted for 1 month from March 01 to April 01, 2015. Monthly rent was \$1,200.00, and in their online application the tenants claim that a security deposit of \$600.00 was collected. In addition to seeking the repayment of their security deposit, in their online application the tenants seek repayment of "\$200.00 rent advancement of last month's rent belonging to me."

The tenants testified that on April 01, 2015 they put their forwarding address in writing and affixed it to the landlord's door. However, to date, the tenants have not received repayment of any sort from the landlord. During the hearing the tenants testified that they seek repayment of their security deposit in accordance with the statutory provisions set out in section 38 of the Act.

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 very limited documentary evidence and the affirmed / undisputed testimony of the tenants, I find that the landlord neither repaid the security deposit, nor filed an application for dispute resolution within 15 days after the date when tenancy ended on April 01, 2015, which I find is also the date when the tenants informed the landlord in writing of their forwarding address. In the result, I find that the tenants have established entitlement to the double return of their security deposit in the total amount of **\$1,200.00** (2 x \$600.00).

I find that the tenants' accounting for the "\$200.00 rent advancement of last month's rent belonging to me," is insufficient for me to conclude that they have established entitlement to repayment of that amount. Accordingly, this aspect of their application is hereby dismissed.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$1,200.00**. 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

