



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover double the security deposit and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*; served by registered mail on May 22, 2015. Canada Post tracking numbers were provided by the tenant in documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the tenant entitled to recover double the security deposit?

Background and Evidence

The tenant testified that this tenancy started on January 01, 2012 for a month to month tenancy. Rent for this unit was \$1,600.00 per month due on the 1st day of each month in

advance. The tenant testified that she paid \$800.00 for the security deposit on January 01, 2012.

The tenant testified that she vacated the rental unit on May 01, 2015 and did not give the landlord written permission to keep all or part of the security deposit. The tenant testified that she provided hers forwarding address in writing to the landlord on May 01, 2015 and this was delivered to the landlord's house. The tenant has provided a copy of the letter sent to the landlord with her forwarding address and her request for the landlord to return the security deposit to that address. The tenant has also provided a letter from a witness who went with the tenant on May 01, 2015 to deliver the tenant's letter to the landlord.

The tenant testified that the landlord did not complete a move in condition inspection report at the start of the tenancy and the tenant had to clean the unit. At the end of the tenancy the landlord walked around the unit with the tenant and picked faults in the tenants cleaning of the unit. The tenant has provided photographic evidence showing the unit was left clean at the end of the tenancy.

The tenant testified that the landlord has not returned the tenant's security deposit within 15 days and therefore the tenant seeks to recover double the security deposit.

Analysis

Section 38(1) of the *Residential Tenancy Act (Act)* says that a landlord has 15 days from the end of the tenancy or from the date that the landlord receives the tenant's forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If the landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Therefore, based on the above and the undisputed evidence presented I find that the landlord did receive the tenant's forwarding address in writing on May 01, 2015. As a result, the landlords had until May 16, 2015 to return all of the tenant's security deposit or file a claim to keep it. As the landlord failed to do so, the tenant has established a claim for the return of double the security deposit to an amount of **\$1,600.00**, pursuant to section 38(6)(b) of the *Act*. There has been no accrued interest on the security deposit for the term of the tenancy.

The tenant is also entitled to recover the **\$50.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

Conclusion

For the reasons set out above, I grant the tenant a Monetary Order pursuant to Section 38(6)(b) and 72(1) of the *Act* in the amount of **\$1,650.00**. This Order must be served on the Respondent and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Respondent fails to comply with the Order.

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: October 28, 2015

Residential Tenancy Branch

