



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDC MNSD

Introduction

This hearing dealt with an application by the tenant for return of double the security deposit. The tenant has also requested recovery of the \$50.00 filing fee for this application. Although served with the Application for Dispute Resolution and Notice of Hearing sent by registered mail on August 10, 2015, the landlord failed to appear at the conference call hearing. A copy of the Canada Post receipt was submitted into evidence.

Background and Evidence

This tenancy began on September 29, 2014 at which time the tenant paid a security deposit of \$900.00. The amount was separated out by the landlord as \$800.00 as a security deposit and \$150.00 as a 'cleaning fee' but for the purposes of this application I find that the total sum amounted to a security deposit as defined by the Act. The tenant vacated the rental unit on October 28, 2014. Subsequently, repeated attempts to get his security deposit returned by the landlord were to no avail. The tenant sent his forwarding address to the landlord by registered mail on July 18, 2015 and requested return of his security deposit. A copy of the letter was submitted into evidence as was the Canada Post receipt for the registered mail delivery. To date, the tenant has not received any of his security deposit back from the landlord. The tenant also testified that he did not give any written authorization to the landlord to retain all or any part of his security deposit.

Analysis

Section 38(1) of the *Act* says 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 do one of the following:

- repay any security deposit or pet damage deposit to the tenant with interest; or

- make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) then goes on to say that if a landlord does not comply with the above, the landlord may not make a claim against the deposit(s) and **must pay the tenant double** the amount of the security deposit, pet damage deposit, or both, as applicable.

In the present case, the landlord has not returned the tenant's security deposit and has not filed a claim against the deposit. The landlord should have taken one of these actions by no later than August 5, 2015. As a result, the landlord must pay to the tenant double the amount of the deposit in the amount of \$1800.00.

Conclusion

I find that the tenant has established a total monetary claim of \$1800.00 representing double the security deposit. I find that the tenant is also entitled to recover the \$50.00 filing fee for this application for a total award of \$1850.00. This order may be 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: November 02, 2015

Residential Tenancy Branch