



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code MNSD, OLC, FF

Introduction

The tenant applies to recover a \$192.50 security deposit.

The landlord did not attend the hearing within fifteen minutes after its scheduled start time. The tenant's agent Ms. H. testified that the landlord was served with the application and notice of hearing by registered mail. She submitted a copy of a registered mail receipt with tracking number (shown on the cover page of this decision). Canada Post records show that the mail was "refused by recipient" on December 4, 2016. She also says that following return of the mail, she deposited a copy in the landlord's mailbox.

Sections 89 and 90 of the *Residential Tenancy Act* (the "RTA") deal with service. They do not permit service of an application by leaving it in the landlord's mailbox but do permit service by registered mail.

I find that the landlord has been duly served by registered mail. He cannot avoid the process by declining or refusing to collect registered mail addressed to him.

On the undisputed evidence of Ms. H., I find that this tenancy ended September 30, 2015 and that the tenant's forwarding address in writing was provided to the landlord by registered mail sent October 8, 2015.

The landlord has no monetary award against the tenant nor does he have her written permission to retain any portion of the deposit. The tenant is therefore entitled to its return.

Section 38 of the *RTA* provides that once a tenancy has ended and once the tenant has provided her landlord with her forwarding address in writing, the landlord must then, within fifteen days, either repay the deposit or make an application for dispute resolution

to keep it. Failure to comply results in the landlord having to account to the tenant for double the deposit amount.

The tenant has not claimed the doubling provision of s. 38.

Residential Tenancy Policy Guideline 17 "Security Deposit and Set off [sic]" provides that unless the tenant has specifically waived the doubling of the deposit, either on an application for the return of the deposit or at the hearing, the arbitrator will order the return of double the deposit.

The tenant's agent Ms. H. declined to waive the doubling provision once alerted to the guideline.

I award the tenant \$385.00 plus recover of the \$50.00 filing fee.

Conclusion

The tenant will have a monetary order against the landlord in the amount of \$435.00.

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: March 23, 2016

Residential Tenancy Branch

