



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CYCLONE HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for the return of double the security deposit pursuant to section 38 and 67 of the Act;

The tenant attended the hearing via conference call and provided undisputed affirmed testimony. The landlord did not attend or submit any documentary evidence. The tenant stated that the landlord was served in person at the landlord's office on September 26, 2015 with the tenant's notice of hearing package and the submitted documentary evidence. I accept the undisputed affirmed evidence of the tenant and find that the landlord was properly served with the notice of hearing package and the submitted documentary evidence as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of double the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant provided undisputed affirmed testimony that there was a signed tenancy agreement in which a \$420.00 security deposit was paid to the landlord at the beginning of the tenancy.

The tenant stated that the landlord was provided her forwarding address in writing on December 1, 2014 to end the tenancy on March 31, 2015. The tenant stated that after moving out on March 31, 2015 the landlord has failed to return the \$420.00 security deposit. The tenant stated that as of the date of this hearing the original \$420.00 security deposit has not yet been returned by the landlord.

Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award pursuant to subsection 38(6) of the Act equivalent to the value of the security deposit. However, pursuant to paragraph 38(4)(a) of the Act, this provision does not apply if the landlord has obtained the tenant's written authorization to retain all or a portion of the security deposit to offset damages or losses arising out of the tenancy.

I accept the undisputed affirmed evidence of the tenant and find that the landlord has failed to return the \$420.00 security deposit within 15 days of ending the tenancy on March 31, 2015. The tenant had provided her forwarding address in writing to the landlord on December 1, 2014. The tenant is entitled to the return of the original \$420.00 security deposit.

The tenant stated that she is not aware of the landlord filing an application for dispute to return the security deposit nor did she give permission to the landlord to retain it.

As such, I find that the tenant is also entitled pursuant to section 38 (6) to an amount of \$420.00 which is equal to the original security deposit.

The tenant has established a total monetary claim of \$840.00.

Conclusion

The tenant is granted a monetary order for \$840.00.

This order must be served upon the landlord. Should the landlord fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial 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: April 05, 2016

Residential Tenancy Branch