



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNSD

Introduction

This is an application brought by the tenant(s) requesting a monetary order in the amount of \$1000.00, and recovery of their \$100.00 filing fee.

The applicant testified that the respondent was served with notice of the hearing by registered mail that was mailed on January 30, 2016; however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondent, and if so in what amount.

Background and Evidence

The applicant testified that this tenancy began on July 12, 2014, and on that date a security deposit of \$500.00 was paid to the landlord.

The applicant further testified that the tenancy ended on December 31, 2015, and that no permission was given to the landlord to keep any or all of the security deposit.

The applicant further testified that the landlord failed to return the full security deposit, only returning \$147.50 which was received by mail in January 2016, at the forwarding address he given to the landlord. The applicant further testified that he has supplied a copy of the envelope in which the cheque was mailed which clearly shows that the landlord had his forwarding address.

The applicant further stated that he has not cashed the cheque because he did not agree to any deductions from the security deposit, and he is therefore requesting an order that the landlord now pay double the security deposit, because the landlord failed to return the security deposit within 15 days of receiving the forwarding address in writing.

He is also requesting recovery of his filing fee.

Analysis

The applicant has provided a copy of the tenancy agreement that clearly shows that a \$500.00 security deposit was paid on July 12, 2014.

The applicant has also supplied a photo copy of the cheque that the landlord sent to the tenant, along with the photocopy of the envelope in which the cheque was mailed, and that envelope clearly shows that the landlord did have the tenants forwarding address.

Section 38 of the Residential Tenancy Act states that, if the landlord does not either return the security deposit, get the tenants written permission to keep all or part of the security deposit, or apply for dispute resolution within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant double the amount of security deposit.

The landlord has not returned the tenant's full security deposit, or applied for dispute resolution to keep any or all of tenant's security deposit, and the time limit in which to apply is now past.

This tenancy ended on December 31, 2015 and the landlord had a forwarding address in writing by January 2016 and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore the landlord must pay double the amount of the security deposit to the tenant.

The tenants paid a deposit of \$500.00, and therefore pursuant to section 38(6)(b) of the Residential Tenancy Act, the landlord must pay \$1000.00 to the tenants.

I also allow the tenants request for recovery of the \$100.00 filing fee.

Conclusion

Pursuant to sections 38, 67, and 72 of the Residential Tenancy Residential Tenancy Act, I have issued a monetary order for the respondent to pay \$1100.00 to the applicants.

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 13, 2016

Residential Tenancy Branch

