



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, MND, MNDC, MNSD, O, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the respondent tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession to end the tenancy by mutual agreement; to a monetary order for damage to the property; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 44, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the tenancy began on September 15, 2015 as a month to month tenancy for the monthly rent of \$750.00 due on the 1st of each month with a security deposit of \$500.00 paid.

The tenant stated she moved out of the rental unit and provided the landlord with her forwarding address in writing on January 15, 2016. The tenant submitted she has not received her security deposit back from the landlord.

Analysis

In the absence of the landlord I dismiss their Application for Dispute Resolution in its entirety. As a result I must consider the disposition of the security deposit still held by the landlord.

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit.

Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

I accept the tenant's undisputed testimony that the tenancy ended on January 15, 2016 and that she provided her forwarding address in writing on the same date.

While I acknowledge the landlord submitted an Application for Dispute Resolution on January 27, 2016 which would normally satisfy the landlord's obligation to return the deposit or file a claim within 15 days of the end of the tenancy and receipt of the forwarding address, I find failing to attend this hearing to pursue the claim has the same effect as not filing an Application at all.

As such, I find the landlord has failed to comply with the requirements under Section 38(1) and the tenant is entitled to return of double the amount of the deposit pursuant to Section 38(6) of the *Act*.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,000.00** comprised of double the amount of the security deposit.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: September 15, 2016

Residential Tenancy Branch