



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, 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 tenant.

The tenant testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on April 21, 2016 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed.

Based on the testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of double the amount of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Act*

Background and Evidence

The tenant submitted into evidence a copy of a tenancy agreement signed by the parties on June 2, 2015 for a 1 year and 1 day fixed term tenancy beginning on June 15, 2015 for a monthly rent of \$1,700.00 due on the 15th of each month with a security deposit of \$850.00. The tenancy ended on March 15, 2016.

The tenant testified she provided the landlord with her forwarding address in a letter she sent by registered mail on January 25, 2016. The tenant also testified that she has not received her security deposit back from the landlord.

Analysis

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.

Based on the tenant's undisputed evidence and testimony I find the tenancy ended on March 15, 2016 and that the tenant had provided her forwarding address prior to the end of the tenancy. As a result, I find the landlord had until March 30, 2016 to either return the tenant's security deposit or submit an Application for Dispute Resolution seeking to claim against the deposit.

In consideration of the tenant's undisputed testimony and since there is no evidence before me that the landlord has applied to claim against the deposit I find the landlord has failed to comply with his obligations under Section 38(1). As such, I find the tenant is entitled to double the amount of the security deposit, pursuant to Section 38(6).

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,800.00** comprised of \$1,700.00 double security deposit and the \$100.00 fee paid by the tenant for this application.

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 28, 2016

Residential Tenancy Branch