



Dispute Resolution Services

Page: 1

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 a monetary order.

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

The tenant testified the landlord was served with the 3 copies of the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by courier on March 7, 2016 in accordance with Section 89. The tenant testified she sent one copy to the landlord's home; to his work address; and to his parents address.

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 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, 67, and 72 of the *Residential Tenancy Act (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 6 month fixed term that converted to a month to month tenancy on December 1, 2015 for a monthly rent of \$1,400.00 due on the 1st of each month with a security deposit of \$700.00 paid. The tenancy ended on January 31, 2016.

The tenant stated she provided the landlord with her forwarding address twice, once by text message on January 25, 2016 and once by email on February 16, 2016. On both

occasions the landlord has responded to the tenant indicating he would be returning the deposit to her address.

Analysis

Section 71 of the Act allows that I may determine that a document has been served in a manner that does not comply with the relevant sections on service (88 and 89) can be sufficiently served if done so by an alternate method.

In this case, because the landlord has responded to both the tenant's text message and the email providing her address I find, pursuant to Section 71, that the tenant's address was originally provided to the landlord on January 25, 2016 and later on February 16, 2016.

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.

From the tenant's undisputed testimony and as per my finding above I find for the purposes of Section 38(1) the landlord received the tenant's forwarding address on February 16, 2016. As such, I find the landlord had until March 1, 2016 to either return the deposit or file an Application for Dispute Resolution seeking to claim against the deposit.

As there is no evidence before me that the landlord has filed an Application for Dispute Resolution and the tenant submits that she has not received the deposit, I find the landlord has failed to comply with Section 38(1) and the tenant is entitled to double the amount of the 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 **\$1,500.00** comprised of \$1,400.00 double the security deposit plus 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: October 24, 2016

Residential Tenancy Branch

