



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing dealt with an application by the tenant for double recovery of the security deposit. The tenant's counsel and the landlord attended the teleconference.

At the outset of the hearing, the landlord confirmed that she had received the tenant's application and evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to double recovery of the security deposit?

Background and Evidence

The tenancy began on July 20, 2016. The tenant paid the landlord a security deposit of \$350.00 on that date. The tenancy ended on August 17, 2016. The parties did not dispute these facts.

The tenant submitted evidence to show that she served the landlord with her written forwarding address by registered mail sent on August 23, 2016 and again on September 16, 2016. Canada Post records show that the landlord did not pick up the registered mail on either date. The landlord has not returned the security deposit or applied for dispute resolution.

Analysis

Section 38 of the *Residential Tenancy Act* requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the amount of the security deposit.

In this case, the tenancy ended on August 17, 2016. I accept the tenant's evidence that she served the landlord with her forwarding address in writing sent by registered mail to the landlord's address on two occasions, August 23, 2016 and September 16, 2016. A party to a dispute cannot avoid service by not collecting their registered mail. Documents sent by registered mail are deemed to be received five days after mailing. In this case, the latest possible date for the landlord to be deemed served with the tenant's forwarding address is September 21, 2016.

The landlord has failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing. I therefore find that the tenant has established a claim for double recovery of the security deposit, in the amount of \$700.00.

As her application was successful, the tenant is also entitled to recover the \$100.00 filing fee for the cost of this application.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$800.00. This order may be filed in the Small Claims 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: November 10, 2016

Residential Tenancy Branch