



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- authorization to obtain a return of all or a portion of the security deposit, including double the amount, pursuant to section 38;

The hearing was conducted by conference call. The landlord did not attend this hearing, although I waited until 1:45 p.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 1:30 p.m. The tenant's agent attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The tenant's agent testified that on February 4, 2017, she sent a copy of the Application for Dispute Resolution and Notice of Hearing to the landlord by registered mail. A subsequent evidence package was also served to the landlord by registered mail. Registered mail tracking numbers were provided in support of service.

Based on the above evidence, I am satisfied that the landlord was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the landlord.

Issues

Is the tenant entitled to a return of all or a portion of the security deposit, including double the amount?

Background and Evidence

The tenancy ended on December 30, 2016. The tenant paid a security deposit of \$340.00 at the start of the tenancy which the landlord continues to hold.

The tenant is claiming double the security deposit arguing that the landlord failed to return the security deposit within 15 days of the date the landlord received the tenants forwarding address

in writing. The tenant submitted a copy of a letter dated November 30, 2016 and pictures of the letter being deposited in the landlord's mailbox as proof of service of a forwarding address.

Analysis

Section 38 of the Act provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. A landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit, pet deposit, or both, as applicable.

I find the tenant did provide a forwarding address in writing to the landlord. The tenant's security deposit was not refunded within 15 days of the end of tenancy as required by section 38 of the Act and the doubling provisions of section 38 therefore apply.

I allow the tenants claim for return of the security deposit and award an amount of \$680.00, which is double the original security deposit of \$340.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$680.00. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: March 14, 2017

Residential Tenancy Branch