



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 an application by the tenant for a monetary order for the return of double the security deposit and for the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on September 16, 2016. The tenant provided a tracking number. The tracking history indicates that the landlord received the package and signed for it on September 20, 2016.

Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit and the filing fee?

Background and Evidence

The tenancy began on April 01, 2011 and ended on May 01, 2016. The monthly rent was \$1,250.00. Prior to moving in, the tenant paid a security deposit of \$625.00.

The tenant testified that he provided the landlord with his forwarding address in writing, on July 02, 2016. The tenant filed a copy of the text message from the landlord asking for a forwarding address and the tenant's reply. The tenant stated that he contacted the landlord multiple times after providing the landlord with his forwarding address and the landlord promised to mail the deposit to him but never did.

On September 12, 2016, the tenant filed this application for the return of double the security deposit and for the recovery of the filing fee.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$625.00 and is obligated under section 38 to return double this amount (\$1,250.00). Since the tenant has proven his claim, he is also entitled to the recovery of the filing fee (\$100.00).

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for \$1,350.00. This order may be filed in the Small Claims Court and enforced as an order of that Court

Conclusion

I grant the tenant a monetary order for **\$1,350.00**.

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 17, 2017

Residential Tenancy Branch