



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, 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 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 September 23, 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.

However, the tenant provided tracking information that confirms the landlord received the hearing package on September 27, 2016.

Based on the testimony and tracking information provided by 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, 67, and 72 of the *Act*.

Background and Evidence

The tenant submitted that the tenancy began in June 2014 for a monthly rent of \$2,650.00 due on the 1st of each month with a security deposit of \$1,325.00 paid. The tenancy ended on January 31, 2015.

The tenant submitted that the landlord was provided to the landlord in writing when they handed it to her on the last day of the tenancy.

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.

In the absence of any evidence or testimony from the landlord I accept the tenant's submissions that the tenancy ended and their forwarding address was provided to the landlord on January 31, 2015.

As such, I find the landlord had until February 15, 2015 to either return the deposit or file an Application for Dispute Resolution seeking to claim against the deposit. There is no evidence before me that the landlord filed an Application. I accept the tenant's undisputed testimony that the landlord has not returned the deposit to the tenant.

As result, I find the landlord has failed to comply with the requirements set forth in 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 **\$2,750.00** comprised of \$2,650.00 double the 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: March 27, 2017

Residential Tenancy Branch