



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 the tenant's Application for Dispute Resolution seeking a monetary order. The hearing was conducted via teleconference and was attended by the tenant and one of the landlords.

While both parties provided additional testimony, this decision records only the testimony and evidence that was relevant to the determination of the claim.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlords 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 parties agreed the tenancy began on April 15, 2015 as a 1 year fixed term tenancy that converted to a month to month tenancy on April 15, 2016 for a monthly rent of \$2,500.00 due on the 15th of each month with a security deposit of \$1,250.00 paid.

The parties also agreed that the tenant vacated the rental unit and returned keys to the property to the landlord on December 14, 2016. The parties agreed that on the same date (December 14, 2016) the tenant informed the landlord that her forwarding address was the address written on her rent cheques.

The landlord testified that while they completed a quick assessment of the condition of the unit on the day the tenant moved out he had been trying to set up an appointment with her to do a full inspection in January 2017. When the tenant kept refusing to accommodate a meeting, the landlord sent, on January 11, 2017, the tenant a cheque dated January 15, 2017 in the amount of \$1,250.00 by mail. The tenant testified that to the date of this hearing she has not received the landlord's cheque.

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.

As confirmed by the landlord I find that the tenancy ended and the landlord was provided with the tenant's forwarding address on December 14, 2016. As such, I find the landlord had until December 29, 2016 to either return the deposit in full or file an Application for Dispute Resolution seeking to claim against the deposit.

Despite the landlord's testimony that he mailed the tenant a cheque on January 11, 2017, I find that if he has done so he still returned the deposit outside of the time allowed under the *Act*.

As a result, I find the landlord has failed to comply with the requirements set forth in Section 38(1) and therefore, I find the tenant is entitled to double the amount of the deposit pursuant to Section 38(6) of the *Act*.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$2,600.00** comprised of \$2,500.00 double the security deposit and the \$100.00 fee paid by the tenant for this application.

This order must be served on the landlords. If the landlords fail 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.

I note that should the tenant receive the landlord's cheque dated January 15, 2017 and she can successfully negotiate it this will partially satisfy the above order.

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: April 05, 2017

Residential Tenancy Branch