



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes 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 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 attended the hearing and was given a full opportunity to provide testimony, to present evidence and to make submissions.

The tenant testified that on November 27, 2016, she sent a copy of the Application for Dispute Resolution and Notice of Hearing to the landlord by registered mail. A registered mail tracking number was provided in support of service. The tenant testified that the registered mail package was sent to the same address as the dispute address as the landlord resided in the main portion of the home.

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 began on December 1, 2013 and ended on October 31, 2016. The rental unit was a 2 bedroom suite on the ground floor of the residential house. The landlord resided in the main floor and upper floor of the house. The tenant paid a security deposit of \$600.00 and a pet deposit of \$100.00 at the start of the tenancy which the landlord continues to hold.

The tenant is claiming the landlord failed to return the security deposit and pet deposit within 15 days of the date the landlord received the tenants forwarding address in writing. The tenant testified that she attempted to deliver a letter containing the forwarding address in person to the landlord on October 31, 2016 but the landlord's wife refused to accept the letter after answering the door. The tenant then proceeded to tape the letter to the front door of the landlord's residence. The tenant testified that the landlord has since attended to her new address to return some items she left behind at the rental unit so he is aware of her new 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, at the end of the tenancy, 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 by attaching it to the door at the address at which the landlord resides. The tenant's security deposit and pet deposit was not refunded within 15 days 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 \$1400.00, which is double the original security and pet deposit of \$700.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$1400.00. 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: May 25, 2017

Residential Tenancy Branch