



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38;
2. An Order to recover the filing fee for this application - Section 72.

The Landlords did not attend the hearing. I accept the Tenant’s evidence that each Landlord was served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail on January 4, 2017 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlords are deemed to have received the Materials on January 9, 2017.

The Tenant was given full opportunity to be heard, to present evidence and to make submissions. The Tenant withdraws the claim for evidentiary costs.

Issue(s) to be Decided

Is the Landlord required to pay the Tenant double the security deposit?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on August 1, 2016 and ended on November 10, 2016. At the outset of the tenancy the Landlord collected \$250.00 as a security deposit. No move-in inspection was conducted. The Tenant provided its forwarding address by text to the Landlord on November

27, 2016. On December 15, 2017 the Tenant received, by way of e-transfer, return of part of the security deposit in the amount of \$180.00. The Landlord retained \$70.00 without the Tenant's signed agreement and without an order of the Residential Tenancy Branch.

The Tenant does not waive any entitlement to double the security deposit.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Given the undisputed evidence of the Tenant I find that the Landlords failed to return the full security deposit to the Tenant and did not make any application to claim against that security deposit. I find therefore that the Landlord must now repay the Tenant double the security deposit plus zero interest in the amount of **\$500.00**. As the Tenant has been successful I find that the Tenant is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$600.00**. Deducting the **\$180.00** already returned leaves **\$420.00** owing to the Tenant.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$420.00**. If necessary, this order may be filed in the Small Claims 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: June 20, 2017

Residential Tenancy Branch