



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, FF

Introduction

The tenant applies to recover a \$450.00 security deposit, doubled pursuant to s.38 of the *Residential Tenancy Act* (the “Act”).

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Is the tenant entitled to recover her deposit money? To have it doubled under s.38?

Background and Evidence

The rental unit is a one bedroom basement apartment in the landlord's house. There is no written tenancy agreement.

The tenancy started on February 13, 2016 and ended in May 2017. The monthly rent was \$900.00, due on the first of each month. The landlord received a \$450.00 security deposit.

The tenant provided a forwarding address in writing to the landlord on April 29, 2017. The landlord returned the deposit of \$450.00 to the tenant, by personal cheque, only

yesterday. He has not made his own application for dispute resolution making a claim against the deposit.

The parties had arranged for the tenant to pick up her deposit on May 21st when she was to return a remote control unit she'd accidentally taken with her when moving out.

On the morning of the 21st the landlord texted the tenant asking whether she could come either before 9:15 a.m. or after 1:00. The tenant responded that the 21st was not possible anymore.

The parties appear to have had no further communication about the matter until the tenant issued this claim in early June.

Within the last two days, the tenant's friend Ms. L.M. took the remote control to the landlord's house and received a cheque for the deposit.

Analysis

Section 38 provides that once a tenancy has ended and once the landlord has received the tenant's forwarding address in writing, the landlord must, within fifteen days, either repay the deposit money or make an application against it. If the landlord fails to do either of those two things, he is penalized by having to account to the tenant for double the deposit money.

The tenant did not receive her deposit money back within the fifteen day period. However, it is clear that the parties made an arrangement for repayment to accompany the return of the remote control unit that the tenant was obliged to return.

The initial date for that return fell through, in my view through no fault of either. However, I find that it was still the arrangement between the parties. Indeed, when Ms. L.M. returned the remote she received a cheque for the deposit money, as arranged from the start.

In these circumstances the landlord cannot be said to have failed to repay the deposit money and be penalized by having to account for double the deposit money.

Conclusion

The tenant's application for double the deposit money is dismissed.

She has in hand a cheque for the original deposit of \$450.00 and so there will be no award for that amount. If the cheque is dishonoured, she may re-apply.

As this matter could have been resolved anytime the tenant returned the remote, I decline to award recovery of any filing fee.

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: August 31, 2017

Residential Tenancy Branch