



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on June 2, 2017 for:

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

The Landlord applied on June 28, 2017 for:

1. An Order for unpaid rent or utilities - Section 67;
2. A Monetary Order for damage to the unit - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

Preliminary Matters

The Landlord did not attend the hearing. The Tenant states that the tenancy was ended based on the Landlord's issuance of a notice to end tenancy for landlord's use (the “Notice”) in January 2017. The Tenant states that the effective move out date on the Notice was April 1, 2017 and that the reason for the Notice was that the Landlord was going to move into and occupy the entire unit. The Tenant states that on June 4, 2017 the Landlord was served with the Tenant's application for dispute resolution and notice of hearing (the “Materials”) at this address to the person who answered the door. The Tenant states that this person told the Tenant that the Materials would be given to the Landlord. The Tenant states that later in the month of June 2017 the Tenant and

Landlord ran into each other at a store and the Landlord spoke to the Tenant about the Tenant's application and informed the Tenant about the Landlord's application.

Section 89(1) of the Act provides that an application for dispute resolution must be given to a landlord in one of the following ways:

- by leaving a copy with the person;
- if the person is a landlord, by leaving a copy with an agent of the landlord;
- by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord.

Section 71(2)(c) provides that an order may be given that a document not served in accordance with section 89 is sufficiently given or served for purposes of this Act.

Based on the Tenant's evidence that the Landlord confirmed receipt of the Tenant's Materials and made its own application that was scheduled for the same hearing time as the Tenant's application I order that the Materials have been sufficiently served for the purposes of the Act. The Tenant was given full opportunity to be heard, to present evidence and to make submissions. As the Landlord did not appear at the hearing that lasted for 16 minutes to pursue its application I dismiss the Landlord's application.

The Tenant confirms that no filing fee was paid. As no filing fee was paid I dismiss the claim for recovery of a filing fee.

Issue(s) to be Decided

Is the Tenant entitled to return of double the security deposit?

Background and Evidence

The tenancy started on December 1, 2010 and ended on April 1, 2017. Rent of \$1,465.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$712.50 as a security deposit. The Parties mutually conducted a

move-in inspection with a condition report copied to the Tenant. The Parties only conducted a walkthrough of the unit at move-out and the Landlord did not complete a condition report. The Tenant provided its forwarding address on April 3, 2017 by placing a note with this address into the Landlord's mail box. The Tenant claims \$1,425.00.

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. Based on the undisputed evidence of the provision of the forwarding address and given that the Landlord did not make its application within 15 days of receipt of the forwarding address I find that the Landlord must now pay the Tenant **\$1,425.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,425.00**. 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: October 19, 2017

Residential Tenancy Branch