



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for the return of double the security deposit, for compensation pursuant to a s.49 notice to end tenancy and for the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on August 29, 2017. The tenant testified that she tracked the package and found that the landlord had picked it up

On September 15, 2017, the tenant amended her application and sent a copy of the amended application to the landlord by registered mail on December 04, 2017. The tenant provided a tracking number.

Despite having been served the notice of hearing package and the amended application, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to the return of double the security deposit, compensation pursuant to a s.49 notice and the filing fee?

Background and Evidence

The tenancy began in May 2016 and ended on August 01, 2017. The monthly rent at the end of the tenancy was \$2,200.00. Prior to moving in the tenant paid a security deposit of \$1,100.00.

On June 12, 2017, the landlord served the tenant with a two month notice to end tenancy for landlord's use of property with an effective date of September 01, 2017. The reason for the notice was that the landlord or the landlord's family intended to move into the rental unit.

The tenant moved out on July 01, 2017 but her room-mates continued to occupy the rental unit until they finally moved out on August 01, 2017. For the month of July 2017, the tenant paid rent in the amount of \$500.00. The tenant stated that the last month of tenancy was not rent free because she had paid the landlord \$500.00. The tenant stated that she sent the landlord an email asking for the return of the deposit but did not provide a mailing address.

The landlord did not return the deposit and on August 23, 2017, the tenant made this application.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

In this case, I find that the tenant failed to provide the landlord with her forwarding address in writing. Therefore the landlord had no way of returning the deposit or filing an application to make a claim against the deposit, prior to the tenant's application for dispute resolution.

After the tenant provides the landlord with a forwarding address in writing, the landlord has 15 days, to return the deposit to the tenant or make an application to retain the full deposit or a portion of the deposit.

Since the tenant failed to prove that she provided her forwarding address to the landlord, I dismiss her application for the return of the security deposit, with leave to reapply.

Pursuant to section 51 (1) of the *Residential Tenancy Act*, a tenant who receives a notice under section 49 (*Landlord's use of property*) is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

In this case, I find that the tenant received a valid notice to end tenancy for landlord's use of property that complied with Section 52 of the *Residential Tenancy Act*. Based on the testimony of the tenant and the documents filed into evidence, I find that the tenant received a section 49 notice and accordingly is entitled to compensation pursuant to section 51, in the amount of one month's rent of \$2,250.00.

The tenant paid \$500.00 towards rent for the last month of tenancy and therefore I order the landlord to return \$500.00

Since the tenant has proven her claim, she is also entitled to the recovery of the filing fee (\$100.00).

The tenant has established a claim for \$600.00. I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order of \$600.00.

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: December 21, 2017

Residential Tenancy Branch