



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, FF*

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit 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 18, 2017. The tenant provided a tracking number.

Despite having been served the notice of hearing, 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 and the filing fee?

Background and Evidence

The tenancy began on January 01, 2017 and ended on July 31, 2017. The monthly rent was \$850.00. Prior to moving in, the tenant paid a security deposit of \$400.00. The tenant testified that on July 31, 2017, she provided the landlord with her forwarding address in writing and in person. On August 16, 2017, the tenant filed this application.

During the hearing, the tenant testified that had used \$200.00 from her security deposit towards rent, with the landlord's permission. The tenant also agreed that she still owed \$200.00 for rent for July after she cancelled a cheque to the landlord in this amount.

Accordingly at the time of the hearing the landlord was holding a deposit of \$200.00 and the tenant owed \$200.00 in unpaid rent.

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.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

Since the tenant had used \$200.00 from the deposit towards rent, the landlord was holding a deposit of \$200.00. Pursuant to section 38, the landlord must pay the tenant double the amount of the deposit that she was holding at the end of tenancy. Accordingly the landlord is obligated to return \$400.00 to the tenant. The tenant also agreed that she still owed the landlord \$200.00 for rent. Since the tenant has proven her claim, she is also entitled to the recovery of the filing fee (\$100.00).

Overall the tenant has established a claim of \$500.00 which includes the return of double the deposit (\$400.00) plus the filing fee (\$100). The tenant agreed that she owed \$200.00 in unpaid rent. I will use the offsetting provisions of section 72 of the *Act* to grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, in the amount of \$300.00. 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 for **\$300.00**.

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: February 20, 2018

Residential Tenancy Branch