



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, MNDC, 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 24, 2017 to the landlord's address as stated on the tenancy agreement.

The tenant testified that the package was returned to him and therefore he resent the package to the rental unit and to the address that the landlord used when he sent the tenant a letter regarding damage to the floor of the rental unit. All packages were unclaimed by the landlord. The tenant provided tracking numbers for all three packages.

Residential Tenancy Policy Guideline No. 12 provides that, where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Based on the tenant's evidence and pursuant to section 89 and 90 of the *Act*, I find that the landlord has been deemed served with the landlord's dispute resolution hearing package on August 29, 2017, 5 days after the mailing of the package.

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 tenant testified that he had immigrated to Canada and was looking for temporary furnished accommodation for one month while he looked for suitable long term accommodation. The parties entered into a one month fixed term agreement starting on July 15, 2017 and ending on August 14, 2017. The monthly rent was \$3,600.00. Prior to moving in, the tenant paid a security deposit of \$1,800.00.

The tenant testified that he found accommodation that he intended to move to and provided the landlord with his forwarding address in writing, on August 14, 2017 which is the day he moved out of the rental unit. The landlord sent him a letter saying that there was damage to the unit. The parties could not agree on the amount needed to repair the damage and the landlord did not return the security deposit. As of the date of this hearing – February 28, 2018, the landlord is holding a security deposit of \$1,800.00.

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.

The landlord currently holds a security deposit of \$1,800.00 and is obligated under section 38 to return double this amount (\$3,600.00). Since the tenant has proven his claim, he is also entitled to the recovery of the filing fee (\$100.00).

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$3,700.00**. 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 **\$3,700.00**.

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 28, 2018

Residential Tenancy Branch