



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with a tenant's application for return of the security deposit. The tenant was represented by his father, whom the tenant authorized to be his agent in writing. There was no appearance on part of the landlord. Since the landlord did not appear I explored service of hearing documents upon the landlord.

The tenant's agent submitted that the hearing package and evidence was sent to the landlord via registered mail on December 8, 2018 and successfully delivered on December 18, 2018. The tenant's agent orally provided the registered mail tracking number as proof of service and I have recorded the tracking number on the cover page of this decision.

I was satisfied the landlord was duly served with notification of this proceeding and I continued to hear from the tenant's agent without the landlord present.

After hearing the submissions, I determined the landlord is obligated to pay the tenant double the security deposit under section 38(6) of the Act. The tenant had only requested the return of the single amount of the security deposit. The tenant's agent stated the tenant was not waiving entitlement to doubling and if the tenant is entitled to double the tenant would request the application to be amended to seek return of double the security deposit. Since the Act provides that a security deposit must be doubled in certain circumstances, and the tenant has not waived entitlement to doubling, I have amended the tenant's application accordingly.

Issue(s) to be Decided

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

Background and Evidence

The fixed term tenancy started on February 21, 2017 and was set to expire on February 28, 2018. The tenant paid a security deposit of \$500.00 and was required to pay rent of \$1,000.00 on the first day of every month.

The tenant vacated the rental unit and returned possession of the rental unit to the landlord on August 1, 2018. The tenant provided a forwarding address to the landlord, in writing, by delivering it to the landlord's office on September 15, 2018. The tenant did not authorize the landlord to retain the security deposit. The landlord did not file an Application for Dispute Resolution to make a claim against the tenant's security deposit. The landlord has not refunded the security deposit.

Documentary evidence provided for my consideration included a copy of the tenancy agreement; a receipt for the security deposit; the written forwarding address including the envelope containing the letter; and, text messages between the parties.

Analysis

Section 38(1) of the Act provides that the landlord has 15 days, from the date the tenancy ends or the tenant provides a forwarding address in writing, whichever date is later, to either refund the security deposit, get the tenant's written consent to retain it, or make an Application for Dispute Resolution to claim against it. Section 38(6) provides that if the landlord violates section 38(1) the landlord must pay the tenant double the security deposit.

Based on the tenancy agreement and receipt issued for the security deposit, I accept that the landlord collected a security deposit from the tenant in the amount of \$500.00.

Pursuant to section 44(1)(d) a tenancy ends when a tenant vacates a rental unit. In this case, I find the tenancy ended on August 1, 2018 when the tenant vacated the rental unit and returned possession to the landlord. I also accept the unopposed evidence that the tenant did not authorize the landlord to retain his security deposit in writing.

The tenant provided evidence which I have accepted to find the tenant gave the landlord a forwarding address, in writing, on September 15, 2018. Accordingly, I find the landlord had until September 30, 2018 to either refund the security deposit, get the tenant's written consent to retain it, or file an Application for Dispute Resolution to make a claim against it. The landlord did none of the above. Therefore, I find the landlord

violated section 38(1) of the Act and must now pay the tenant double the security deposit under section 38(6).

In light of the above, I provide the tenant with a Monetary Order in the amount of \$1,000.00 to serve and enforce upon the landlord.

Conclusion

The tenant has been provided a Monetary Order in the amount of \$1,000.00 to serve and enforce upon the landlord.

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: April 02, 2019

Residential Tenancy Branch