



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for a Monetary Order for the return of the security deposit, pursuant to sections 38 and 67.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:41 p.m. in order to enable the landlord to call into this teleconference hearing scheduled for 1:30 p.m. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant testified that he served the landlord with his application for dispute resolution via registered mail in January 2019. The tenant testified that he did not know the Canada Post tracking number for the above package. Based on the tenant's undisputed testimony, I find that the landlord was served with the tenant's application for dispute resolution in accordance with section 89 of the *Act*.

Issue to be Decided

1. Is the tenant entitled to a Monetary Order for the return of the security deposit, pursuant to sections 38 and 67 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the tenant, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

The tenant provided the following undisputed testimony. This tenancy began on May 12, 2018 and ended on August 30, 2018. Monthly rent in the amount of \$650.00 was payable on the first day of each month. A security deposit of \$350.00 was paid by the tenant to the landlord. The landlord did not ask the tenant to complete a move in or move out condition inspection report with him. No move in or move out condition inspection reports were completed.

The tenant testified that he personally provided the landlord with his forwarding address in writing on August 21, 2018. The tenant testified that he texted the landlord with his forwarding address on December 17, 2018: this text was entered into evidence. The tenant testified that he also e-mailed the landlord with his forwarding address on January 3, 2019: this e-mail was entered into evidence.

The tenant testified that the landlord has not returned any portion of his security deposit. The tenant testified that he did not provide the landlord with written authorization to retain any portion of his security deposit. The tenant is seeking the return of his security deposit.

Analysis

Section 38 of the Act requires the landlord to either return the tenant's security deposit or file for dispute resolution for authorization to retain the deposit, within 15 days after the later of the end of a tenancy and the tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award, pursuant to section 38(6)(b) of the Act, equivalent to double the value of the security deposit.

However, this provision does not apply if the landlord has obtained the tenants' written authorization to retain all or a portion of the security deposit to offset damages or losses arising out of the tenancy (section 38(4)(a)) or an amount that the Director has previously ordered the tenants to pay to the landlord, which remains unpaid at the end of the tenancy (section 38(3)(b)).

Section C(3) of Policy Guideline 17 states that unless the tenant has specifically waived the doubling of the deposit, either on an application for the return of the deposit or at the hearing, the arbitrator will order the return of double the deposit.

In this case, the landlord did not apply to retain the tenant's security deposit or return it to the tenant within 15 days of the end of this tenancy. Therefore, the tenant is entitled to receive double his security deposit in the amount of \$700.00.

Conclusion

I issue a Monetary Order to the tenant in the amount of \$700.00.

The tenant is provided with this Order in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: April 29, 2019

Residential Tenancy Branch