



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, RPP

Introduction

On April 2, 2019, the Tenant applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”), seeking a return of her security deposit pursuant to Section 38 of the *Act*, and seeking a return of her personal property pursuant to Section 65 of the *Act*.

The Tenant attended the hearing; however, the Landlord did not attend the hearing. All in attendance provided a solemn affirmation.

The Tenant advised that she served the Notice of Hearing package and her evidence to the Landlord by registered mail on April 5, 2019 (the registered mail tracking number is on the first page of this Application). In accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was deemed to have received the Notice of Hearing package and her evidence five days after it was mailed.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to a return of her security deposit?
- Is the Tenant entitled to monetary compensation?

- Is the Tenant entitled to a return of her personal property?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Tenant stated that the tenancy started on January 1, 2019 and ended on March 1, 2019. Rent was established at \$1,300.00 per month, due on the first of each month. A security deposit of \$490.00 was paid.

She advised that the first time she provided a forwarding address in writing to the Landlord was when she sent the Notice of Hearing package to him on April 5, 2019.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 38(1) of the *Act* requires the Landlord, within 15 days of the end of the tenancy or the date on which the Landlord receives the Tenant's forwarding address in writing, to either return the deposit in full or file an Application for Dispute Resolution seeking an Order allowing the Landlord to retain the deposit. If the Landlord fails to comply with Section 38(1), then the Landlord may not make a claim against the deposit, and the Landlord must pay double the deposit to the Tenant, pursuant to Section 38(6) of the *Act*.

Pursuant to Section 38 of the *Act*, if the Tenant wants the security deposit returned, she must provide a forwarding address in writing to the Landlord first. The undisputed evidence is that the Tenant had not provided the Landlord with her forwarding address in writing until making her Application seeking a return of the deposit on April 2, 2019 and sending this package to the Landlord on April 5, 2019. As such, I find the Tenant's Application to be premature. Therefore, the Landlord is put on notice that he now has the forwarding address and he must deal with the security deposit pursuant to Section

38. The Landlord is deemed to have received the decision 5 days after the date it was written and will have 15 days from that date to deal with the deposit.

If the Landlord does not deal with the security deposit pursuant to Section 38 of the *Act* within 15 days of being deemed to have received the decision, the Tenant can then re-apply for double the deposit, pursuant to the *Act*.

With respect to the Tenant's claims for compensation and a return of her personal property, I have dismissed these claims with leave to reapply.

Conclusion

Based on my findings above, I dismiss the Tenant's Application for a return of the security deposit, for compensation, and for a return of her personal property with leave to reapply.

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: May 17, 2019

Residential Tenancy Branch