



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 the security deposit. The tenant also applied 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 May 28, 2019. 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 the security deposit and the filing fee?

Background and Evidence

The tenant testified that the tenancy began in August 2011 and ended on February 15, 2019. A copy of the tenancy agreement was filed into evidence. The monthly rent at the end of tenancy was 1,000.00 due on the first of each month. The tenant testified that she paid a security deposit of \$475.00.

The tenant testified that on April 24, 2019, she sent a letter by registered mail to the landlord, requesting the return of the deposit and providing her forwarding address. The tenant filed a copy of the tracking slip. The tenant stated that she received a reply from the landlord in a letter dated May 22, 2019. The landlord acknowledged having received the tenant's forwarding address but stated that he would be retaining the deposit towards the cost of cleaning and repairs.

On May 21, 2019 the tenant made this application.

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. If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of the end of tenancy or 15 days after receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the deposit.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord did not return the deposit to the tenant and did not make application to retain all or a portion of the deposit within 15 days of receipt of the tenant's forwarding address. Therefore, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the deposit.

The landlord currently holds a security deposit of \$475.00 and is obligated under section 38 to return double this amount to the tenant. Accordingly the tenant is entitled to receive \$950.00. Since the tenant has proven her case, I grant the tenant the recovery of the filing fee of \$100.00.

Overall the tenant has established a claim of \$1,050.00. I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount. 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 **\$1,050.00**.

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: August 20, 2019

Residential Tenancy Branch