



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NOVA RELOCATION INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened in response to an application by the tenant under the *Residential Tenancy Act* (the Act) for an Order for the return of their security deposit and to recover the filing fee. The tenant participated in the conference call hearing, but the landlord did not. The tenant testified they served the landlord with the application for dispute resolution and Notice of Hearing by registered mail and that it was received by the landlord as reflected in the Canada Post tracking information. The tenant provided the tracking information for the registered mail as reflected in the *style of cause* hearing notes (title page). I found that the landlord was properly served with notice of the claim against them and the hearing proceeded in their absence.

Issue(s) to be Decided

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

Is the tenant entitled to the monetary amount claimed?

Background and Evidence

The tenant's undisputed evidence is as follows. They paid a \$725.00 security deposit at the start of the tenancy of December 01, 2018. The tenant provided a document from the landlord/named respondent indicating the monthly payable rent for the living accommodation as \$1450.00 per month. During the hearing I made a finding that the tenant's evidence for a tenancy agreement in the least suffices as a '*licence to occupy a rental unit*' and therefore an agreement for a tenancy as defined in the Act.

The tenancy ended on May 31, 2019, on which day the tenant sent the landlord a written forwarding address by registered mail. The tenant's evidence is that the landlord received the registered mail on the fifth day after it was sent (June 05, 2019). On June 24, 2019 the tenant received a cheque for the deposit amount which after transacting was returned for reason of nonsufficient funds (NSF). The tenant provided the tracking information for the registered mail letter as reflected in the *style of cause* hearing notes (title page). The tenant testified that to date they have not received additional response from the landlord nor received any of their deposit.

Analysis

On preponderance of the evidence and on balance of probabilities I find as follows.

I find **Section 38(1)** of the Act provides that the landlord must return the deposit(s) of the tenancy 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. I find the landlord received the tenant's forwarding address in writing on June 05, 2019. I find 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. As a result, the Act prescribes that pursuant to **Section 38(6)** the landlords **must** pay the tenant *double* the amount of the security deposit and pet damage deposit, as applicable.

The landlords currently hold the security deposit in the amount of \$725.00 and I find that they are obligated under **Section 38** to return *double* this amount. Therefore, I award the tenant \$1450.00, and as they were successful in their application I further grant the tenant their filing fee of \$100.00 for a sum award of **\$1550.00**.

I grant the tenant a Monetary Order under Section 67 for **\$1550.00**. If the landlord fails to satisfy this Order it may be filed in the Small Claims Court and enforced as an Order of that Court.

Conclusion

The tenant's application is granted.

This Decision is final and binding.

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: October 01, 2019

Residential Tenancy Branch