



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on December 3, 2019. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for the return of the security deposit

The Tenant attended the hearing. However, the Landlord did not. The Tenant stated that she served the Notice of Hearing and her application package to the Landlord by registered mail on August 22, 2019. The Tenant provided tracking information for this registered mail package, and it was sent to where the Landlord resides (which was next door to the Tenant's rental unit). Pursuant to section 90 of the Act, I find the Landlord received this package 5 days after it was mailed, on August 27, 2019.

The Tenant was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord return the security deposit or pet damage deposit?

Background and Evidence

The Tenant stated that monthly rent was set at \$950.00 at the time the tenancy ended. Rent was due on the first of the month. The Tenant stated that she paid a security deposit in the amount of \$450.00 at the time she entered into the tenancy agreement with the Landlord. The Tenant stated that she moved into the rental unit on June 1, 2018, and moved out on June 26, 2019. The Tenant stated she has lost her copy of the written tenancy agreement.

The Tenant stated that when she moved out she tried a couple of times to get the Landlord to return the deposit to her, but he ignored her requests. The Tenant stated that she sent her forwarding address in writing, by registered mail, on July 17, 2019. The Tenant provided the tracking information for this package. The Tenant stated that the Landlord has not returned any of her deposit.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, the undisputed evidence and testimony shows that the Tenant moved out and her last day in the rental unit was on June 26, 2019 (she came back to clean the unit on this day), which I find reflects the end of the tenancy. The Tenant confirmed and provided tracking information to corroborate that she sent her forwarding address in writing to the Landlord and she requested her deposit back at that time. The Tenant sent this package on July 17, 2019. Pursuant to section 88 and 90 of the *Act*, I find the Landlord is deemed served with the Tenant's forwarding address in writing on July 22, 2019, the fifth day after its registered mailing.

I note there is no evidence to show that the Tenant authorized any deductions from the security deposit. Pursuant to section 38(1) of the *Act*, the Landlord had 15 days from receipt of the forwarding address in writing (until August 6, 2019) to either repay the

security deposit (in full) to the Tenant or make a claim against it by filing an application for dispute resolution. The Landlord did neither and I find the Landlord breached section 38(1) of the Act.

Accordingly, as per section 38(6)(b) of the Act, I find the Tenant is entitled to recover double the amount of the security deposit (\$450.00 x 2). Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant was successful in this hearing, I also order the Landlord to repay the \$100.00 fee the Tenant paid to make the application for dispute resolution.

In summary, I issued the Tenant a monetary order for \$1,000.00 based on the Landlord's failure to deal with the security deposit in accordance with section 38 of the *Act*.

Conclusion

I grant the Tenant a monetary order in the amount of **\$1,000.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be 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: December 03, 2019

Residential Tenancy Branch