



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:

- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38.

The tenant attended the hearing via conference call and provided undisputed testimony. The landlord did not attend or submit any documentary evidence. The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on November 29, 2019 and has submitted a copy of the Canada Post Receipt as confirmation.

I accept the undisputed evidence of the tenant and find that the landlord was properly served as per sections 88 and 89 of the Act. Although the landlord did not attend and participate in the hearing, the landlord is deemed sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant stated that there was no signed tenancy agreement, but that the tenant paid monthly rent of \$800.00 and a \$400.00 security deposit as shown in the submitted copy of an e-Transfer payment dated May 31, 2019.

The tenant stated that the tenancy ended on August 1, 2019 and that the landlord was provided in writing with the tenant's forwarding address for return of the \$400.00 security deposit via Canada Post Registered Mail on August 1, 2019. The tenant submitted a copy of a letter dated July 1, 2019 and the Canada Post Customer Receipt dated August 1, 2019 as confirmation.

The tenant stated that he did not give any consent to the landlord to retain the \$400.00 security deposit nor is he aware of an application filed to dispute its return to the tenant.

Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security and/or pet damage deposit(s) or file for dispute resolution for authorization to retain the security and/or pet damage deposit(s) within 15 days of the end of a tenancy or a 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 subsection 38(6) of the Act equivalent to the value of the security and/or pet damage deposit(s).

In this case, I accept the undisputed evidence of the tenant and find that the landlord has not returned the \$400.00 security deposit within the allowed timeframe nor has the landlord applied for dispute of its return. On this basis, I find that the tenant is entitled to return of the original \$400.00 security deposit.

I also find pursuant to section 38(6), the landlord having failed to comply with 38(1) is liable for an amount equal to the \$400.00 security deposit for failing to comply with the Act.

The tenant has established a claim for \$800.00.

Conclusion

The tenant is granted a monetary order for \$800.00.

This order must be served upon the landlord. Should the landlord fail to comply with this order, the 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 23, 2020

Residential Tenancy Branch