



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 pursuant to sections 38 and 72 of the *Residential Tenancy Act*. The tenant applied for a monetary order for the return of double 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 September 29, 2020 to the address of the landlord as indicated on a notice to increase rent. 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 double the security deposit and the filing fee?

Background and Evidence

The tenant testified that the tenancy began in August 2018 and ended on August 28, 2020. A copy of the tenancy agreement was filed into evidence. The monthly rent at the end of tenancy was 2,300.00 due on the first of each month. The tenant testified that he paid a security deposit of \$1,325.00.

The tenant testified that he provided the landlord with his forwarding address by text message on August 29, 2020 and followed it up by mailing the forwarding address to the landlord on September 02, 2020. The landlord responded to the text message the same day to inform the tenant of a cracked compartment in the freezer. The tenant testified that he made multiple requests for the return of the deposit by text and phone without success. By September 22, 2020, the tenant had not received the deposit and 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 \$1,325.00 and is obligated under section 38 to return double this amount to the tenant. Accordingly, the tenant is entitled to receive \$2,650.00. Since the tenant has proven his case, I grant the tenant the recovery of the filing fee of \$100.00.

Overall, the tenant has established a claim of \$2,750.00. 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 **\$2,750.00**.

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: December 17, 2020

Residential Tenancy Branch