



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding c/o Sutton Group West Coast
Realty and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

This hearing was reconvened in response to an application by the Tenant through the direct request proceedings pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord did not attend the hearing. The Tenant’s application was originally considered through the direct request proceedings and in an interim decision dated September 25, 2020 (the “Interim Decision”) the matter was adjourned to these participatory proceedings. I accept the Tenant’s evidence that the Landlord was served with the Interim Decision and notice of reconvened hearing by registered mail on October 5, 2020 as required by the service order contained in the Interim Decision. Section 90 of the Act provides that a document served by registered mail is deemed to be received on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlord is deemed to have received the Interim Decision and notice of reconvened Hearing on October 10, 2020. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to return of double the security deposit?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started on August 1, 2019. The rental unit had two exterior doors each with different address as the unit was located on the corner of a cross street. The unit carried both the address set out in the tenancy agreement and the dispute address as set out in the application. At the outset of the tenancy the Landlord collected \$1,900.00 as a security deposit. During the tenancy the Parties only communicated by text and phone call. The tenancy ended on August 15, 2020. On this date the Tenant disagreed with the Landlord's stated intention to retain the security deposit. Property Manager CF requested that the Tenant text its forwarding address to the Property Manager as the Landlord intended to make an application claiming against the security deposit. The Tenant sent the text to Property Manager CF on August 15, 2020. The Tenant also provided its forwarding address on an RTB form and put this forwarding address in the Landlord's mailbox on September 14, 2020. The Landlord did not return the security deposit and has not made any application to claim against the security deposit. The Tenant claims return of double the security deposit.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Given the undisputed evidence of communications by text and the Landlord's request for the Tenant's forwarding address by text I find that the Tenant has substantiated that the Landlord received the forwarding address in writing. As the Landlord has not returned the security deposit and as there is no application from the Landlord claiming against the security deposit, I find that the Tenant has substantiated an entitlement to return of double the security deposit plus zero interest of **\$3,800.00**. As the Tenant has been successful with its claim, I find that the Tenant is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$3,900.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$3,900.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: January 19, 2021

Residential Tenancy Branch