



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable the landlord to call into this teleconference hearing scheduled for 1:30 p.m. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

Preliminary Issue- Service

The tenant testified that she served the landlord with her application for dispute resolution via registered mail on September 14, 2022. The registered mail receipt for same was entered into evidence. The tenant testified that the package was unclaimed and returned to sender. I find that the tenant served the landlord in accordance with section 89 of the *Act* and the landlord was deemed served with the tenant's application for dispute resolution on September 19, 2022 in accordance with section 90 of the *Act*.

I note that failure to pick up one's registered mail does not override or invalidate the deeming provision found in section 90 of the *Act*.

Issue to be Decided

Is the tenant entitled to double the return of her security deposit?

Facts and Analysis

While I have turned my mind to the documentary evidence and the testimony of the tenant, not all details of the tenant's submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

The tenant testified that:

- This tenancy began on July 1, 2019
- This tenancy ended on August 1, 2022
- Monthly rent in the amount of \$2,500.00 was payable on the first day of each month
- A security deposit of \$1,250.00 was paid by the tenant to the landlord.

I accept the above undisputed testimony of the tenant.

The tenant testified that:

- She did not authorize the landlord to retain any portion of the security deposit
- The landlord did not return any portion of the security deposit
- The tenant sent the landlord her forwarding address via express post on June 30, 2022

I accept the above undisputed testimony of the tenant. I find that the landlord was deemed served with the tenant's forwarding address on July 5, 2022 in accordance with sections 88 and 90 of the *Act*.

Section 38 of the *Act* requires the landlord to either return the tenant's security deposit or file for dispute resolution for authorization to retain the deposit, within 15 days after the later of the end of a tenancy and the 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 section 38(6)(b) of the Act, equivalent to double the value of the security deposit.

Based on the undisputed testimony of the tenant, I find that the landlord did not return the tenant's security deposit within 15 days of the end of the tenancy. Pursuant to section 38 of the Act, I award the tenant double the security deposit in the amount of \$2,500.00.

As the tenant was successful in this application for dispute resolution I find that the tenant is entitled to recover the \$100.00 filing fee from the landlord, in accordance with section 72 of the Act.

Conclusion

I issue a Monetary Order to the tenant in the amount of \$2,600.00.

The tenant is provided with this Order in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with this Order, this 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: May 18, 2023

Residential Tenancy Branch