



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for the return of double the security deposit. The daughter of the landlord's agent appeared as an agent for her mother, the respondent S.K..

The tenant testified that she served the owner of the property, C.S.L., with the application for dispute resolution and notice of hearing (the "Hearing Package") by email as she did not have an address for him. Section 89 of the Act provides specific means by which the Hearing Package may be served and does not include email as an acceptable means of service. I find that C.S.L. has not been properly served with the Hearing Package and accordingly dismiss the claim as against him.

Issue(s) to be Decided

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

Background and Evidence

The parties agreed that on or about July 25, 2008, the tenant entered into a tenancy agreement with S.K. At that time, a security deposit of \$1,300.00 was paid by the tenant and accepted by S.K. The tenancy ended on August 13, 2008 pursuant to a mutual agreement to end tenancy. The tenant testified that on October 3, 2008, she sent S.K. a registered letter requesting the return of the security deposit and providing a forwarding address.

The agent appearing for S.K. argued that although S.K. rented the premises and accepted the security deposit and rent, because the monies were forwarded to the owner, S.K. cannot be considered an agent for the owner and was therefore improperly named as a respondent. The agent further testified that she had no knowledge of S.K.

having received the registered letter containing the tenant's forwarding address.

Analysis

I find that the agent S.K. is a properly named respondent. The definition of "Landlord" under the Act includes an agent. While the agency relationship may have ended after the tenancy ended, during the relevant time I find that S.K. acted as an agent of the landlord during the tenancy. While S.K. may have forwarded monies to the owner, she may still be held liable for the return of those monies in her capacity as agent. In the balance of this decision I have used the term "landlord" to describe S.K..

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. A search of the Canada Post website shows that S.K. signed for the October 3 registered letter containing the tenant's forwarding address. I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$1,300.00 and is obligated under section 38 to return this amount together with the \$8.52 in interest which has accrued to the date of this judgment. The amount that is doubled is the base amount of the deposit.

Conclusion

I grant the tenant an order under section 67 for \$2,658.52, which sum includes the double security deposit, interest and the \$50.00 filing fee paid to bring this application. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated January 28, 2009.

