Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, MNDC, FF*

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order pursuant to Section 38 for the return of double the security deposit, for the cost of a process server and for the recovery of the filing fee.

In a decision dated June 03, 2015, the tenant was granted leave to serve the landlord at his place of business. On July 17, 2015, the tenant served the landlord with a notice of hearing package, by registered mail to the landlord's place of business. The tenant filed the original tracking slip. The tenant also served the landlord's agent in person on August 09, 2015 in the presence of a witness and filed a statement from this witness.

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, for the cost of a process server and the filing fee?

Background and Evidence

The tenancy began on November 01, 2012 and ended on July 01, 2014. Prior to moving in, the tenant paid a security deposit of $1,247.50. The tenant filed into evidence, a copy of the tenancy agreement and proof of payment of the security deposit.

The tenant testified that he provided the landlord with his forwarding address in writing on July 24, 2014 and did not hear back. The tenant did not receive his security deposit and testified that the landlord was avoiding contact.

The tenant is claiming the return of double the security deposit, cost of using a process server, mailing costs and the recovery of the filing fee.

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.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that 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 $1,247.50 and is obligated under section 38 to return double this amount ($2,495.00) plus interest on the base deposit ($0.00).

The legislation does not permit me to award any litigation related costs other than the filing fee. Therefore the tenant's claim for the cost of using a process server and for registered mail is dismissed. Since the tenant has proven his claim, he is also entitled to the recovery of the filing fee ($50.00).

I grant the tenant an order under section 67 of the *Residential Tenancy Act,* for **$2,545.00.** 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 **$2,545.00.**

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: September 29, 2015

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Residential Tenancy Branch