



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with a tenant's application for return of double the security deposit. The tenant appeared and was assisted during the hearing; however, there was no appearance by or on behalf of the landlord. Since the landlord was not in attendance, I explored service of hearing documents upon the landlord.

I heard that a hearing package was sent to the landlord and the manager of the property by registered mail on May 6, 2018 at the rental unit address. The registered mail package was refused by the manager. The registered mail package sent to the landlord was unclaimed. Photographs of the returned registered mail envelopes, including tracking numbers, were provided as proof of service. The tenant testified that the manager resided at the residential property. The tenant was not provided a service address for the landlord other than the residential property. I accept that the address of the rental unit is the address at which the landlord carries on business as a landlord and the rental unit address is the landlord's service address with respect to tenancy related matters.

Pursuant to section 90 of the Act, a person is deemed to have received documents five days after mailing, even if the person refuses to accept or pick up their mail. Pursuant to section 90 of the Act, I find the landlord to be deemed served with the hearing documents. Accordingly, I continued to hear from the tenant without the landlord present.

Issue(s) to be Decided

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

Background and Evidence

The tenancy started on February 1, 2018 and the tenant paid a security deposit of \$300.00. The tenant was required to pay rent of \$600.00 per month. The landlord did not prepare a written tenancy agreement; however, the tenant provided text messages in an effort to demonstrate the terms of tenancy and a receipt dated February 1, 2018.

The tenant described the rental unit as being a room in a house with shared access to a kitchen and bathroom. The tenant stated that he shared the kitchen and bathroom with other tenants and the manager but not the landlord.

I heard that the tenancy ended at the end of March 2018 and the tenant gave his forwarding address to the manager on a piece of paper shortly after he moved out, on or about April 4, 2018. The tenant also sent a text message to the landlord with his forwarding address.

The tenant testified that he did not authorize the landlord to retain his security deposit and the landlord has not refunded the deposit to him or made a claim against it. Nor, did the landlord invite him to do a move-in or move-out inspection or prepare inspection reports.

The tenant's evidence included a receipt dated February 1, 2018 in the amount of \$900.00; text messages between the landlord and tenant that demonstrate the monthly rent was \$600.00, the last month of tenancy was March 2018, and the tenant giving the forwarding address to the manager in writing and to the landlord via text message; a copy of the letter dated April 2, 2018 where the tenant provided his forwarding address; and, a notice posted at the residential property to demonstrate the landlord had appointed a manager to act on his behalf for the rental of the property.

Analysis

In this case, I accept the unopposed evidence that the tenant paid a \$300.00 security deposit on February 1, 2018 along with the \$600.00 rent payment on that date. Based on the evidence before me, I further find that this tenancy is not exempt from application of the Act.

Section 38(1) of the Act provides that the landlord has 15 days, from the date the tenancy ends or the tenant provides a forwarding address in writing, whichever date is later, to either refund the security deposit, get the tenant's written consent to retain it, or make an Application for Dispute Resolution to claim against it. Section 38(6) provides that if the landlord violates section 38(1) the landlord must pay the tenant double the security deposit.

I accept the unopposed evidence that the tenancy ended on March 31, 2018 and I accept that the tenant did not provide written authorization for the landlord to retain his deposit or otherwise extinguish his right to its return.

The tenant provided evidence to demonstrate he gave his written forwarding address to the landlord's manager by way of a document dated April 2, 2018 and the manager confirmed receipt of it by way of a text message. The tenant submitted that his forwarding address was provided on April 4, 2018. Since the manager was authorized to act on behalf of the landlord with respect to tenancy related matters for the property, I find the landlord to be in receipt of the tenant's written forwarding address as of April 4, 2018.

Accordingly, I find the landlord had 15 days from April 4, 2018 to either refund the security deposit to the tenant, file an Application to make a claim against it, or obtain the tenant's written consent to retain it. Since the landlord did none of these things, I find the landlord must now pay the tenant double the security deposit, or \$600.00.

I further award the tenant recovery of the \$100.00 filing fee paid for this application.

In light of the above, I provide the tenant with a Monetary Order in the sum of \$700.00 to serve and enforce upon the landlord.

Conclusion

The tenant has been provided a Monetary Order in the sum of \$700.00 to serve and enforce upon the landlord.

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: November 01, 2018

Residential Tenancy Branch