



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, FF*

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of the security deposit and for the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on October 18, 2018. The tenant provided a tracking number. The tenant stated that she checked the tracking history and found that the landlord had picked up and signed for the package on October 25, 2018.

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 the security deposit and the filing fee?

Background and Evidence

The tenant testified that the tenancy began on May 15, 2017 and ended on June 15, 2018. The monthly rent was \$1,600.00 due on the first of each month. The tenant testified that she paid a security deposit of \$800.00 and that on May 01, 2018 she gave the landlord notice to end the tenancy effective June 15, 2018. The tenant stated that she paid rent in full for June 2018 and recovered rent for June 15- 30, 2018 from the new tenant that moved in.

On August 17, 2018 the tenant sent the landlord her forwarding address by email and followed it up by sending him the forwarding address on August 27, 2018 by registered mail. The tenant filed a tracking number and stated that the landlord had accepted and signed for the letter on September 17, 2018.

The tenant also contacted the landlord multiple times by email but did not receive the security deposit. On October 15, 2018 the tenant made this application.

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. If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of the end of tenancy or 15 days after receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the deposit.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord received the forwarding address of the tenant on September 17, 2018 and as of October 15, 2018, had not returned the deposit to the tenant and had not made application to retain all or part of the deposit. Therefore, the landlord is 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 \$800.00 and is obligated under section 38 to return double this amount (\$1,600.00) to the tenant. Since the tenant has proven her case, I grant the tenant the recovery of the filing fee of \$100.00. Overall the tenant has established a claim of \$1,700.00. I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount. 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 **\$1,700.00**.

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: February 11, 2019

Residential Tenancy Branch