



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

MNSD

Introduction

This hearing was in response to an Application for Dispute Resolution, in which the Tenant applied for the return of double his security deposit.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Issue(s) to be Decided

The issue to be decided is whether the Tenant is entitled to the return of double the security deposit paid in relation to this tenancy.

Background and Evidence

The Agent for the Landlord and the Tenant agree that this tenancy began on October 01, 2007, at which time the Tenant paid a security deposit of \$775.00.

The Agent for the Landlord contends that this tenancy ended on December 22, 2008 and the Tenant contends that it ended on December 21, 2008.

The Tenant stated that he personally delivered a letter to the Landlord's business address on Pacific Street, Vancouver, BC on December 29, 2008. He submitted a copy of the letter he delivered, in which he provided his forwarding address.

The Agent for the Landlord agreed that the letter was received by the Landlord, although she does not know when it was received.

The Agent for the Landlord stated that the Tenant did not authorize the Landlord to retain the security deposit; that the Landlord did not return the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

The Agent for the Landlord stated that the deposit was retained because the Tenant ended the tenancy without providing proper notice and that the Tenant still owed rent.

Analysis

The undisputed evidence is that the Tenant paid a security deposit of \$775.00 on October 01, 2007; that the tenancy ended on December 21, 2008 or December 22, 2008; that the Tenant did not authorize the Landlord to retain any portion of the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against the deposit.

In the absence of evidence to the contrary, I accept the Tenant's evidence that he provided his forwarding address, in writing, to the Landlord on December 29, 2008. In reaching this conclusion, I note that the Agent for the Landlord did not dispute the date that the address was provided to the Landlord.

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit plus interest or make an application for dispute resolution claiming against the deposits. In the circumstances before me, I find that the Landlord failed to comply with section 38(1), as fifteen days have passed and the Landlord has not returned the security deposit or filed an Application for Dispute Resolution.

In reaching this conclusion, I have not considered whether the Tenant owes money to the Landlord, as this is not grounds for arbitrarily retaining the security deposit.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1), the Landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit that was paid, plus interest on the original amount.

Conclusion

I find that the Tenant has established a monetary claim of \$1,564.60, which is comprised of double the security deposit, plus \$14.60 in interest on the original security deposit, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Decision Date: March 16, 2009.

Dispute Resolution Officer