



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes

MNSD & FF

Introduction

This hearing dealt with an application by the tenant for the return of her security deposit plus interest. Both parties appeared for the hearing and were provided the opportunity to present their evidence and respond to the evidence of the other party.

Issue to be Determined

Is the tenant entitled to the return of her security deposit plus interest?

Background and Evidence

This tenancy began on approximately November 30 or December 1, 2007 for the monthly rent of \$785.00. Neither party provided a copy of the written tenancy agreement. The tenant stated that she paid a security deposit of \$400.00 at the start of the tenancy and the landlord agreed with this evidence. The tenancy ended effective December 31, 2008.

The tenant stated, and the landlord confirmed, that a written move in condition inspection report was completed at the start of the tenancy. However, the tenant indicated that she was never provided a copy of the report. The landlord did not provide a copy of the move in condition inspection report as evidence.

The tenant stated that she offered her forwarding address to the resident manager but was told that it was not required and that she could just contact the landlord for the return of her security deposit. She did provide the landlord with two contact telephone numbers.

The tenant stated that the resident manager attended the rental unit on December 30th and 31st and conducted an informal assessment of the rental unit. She stated that the resident manager stated the rental unit was in good condition and there should not be a problem with the return of her security deposit.

The resident manager confirmed in his evidence that he did a walk through with the tenant and that he stated that everything looked good; however, he also submitted that he told the tenant that a formal move out inspection had to occur. The resident manager stated that he told the tenant to let him know when she would be available to do the inspection.

A few weeks later the tenant contacted the landlord for the return of her security deposit. At that time the landlord attempted to return only a portion of the deposit on the basis that the landlord believed the tenant was responsible for some damages and cleaning to the rental unit. The tenant rejected the landlord's claims and did not accept the partial sum offered.

Subsequently, the tenant filed this application. The landlord did not receive the tenant's forwarding address in writing until served with notice of this hearing and the tenant's application.

Analysis

The tenant's application is granted.

I find that the landlord has not met his obligations under the *Act* in retaining a portion of the tenant's security deposit plus interest. I am not satisfied that the landlord met his obligation under section 35 of the *Act* to provide the tenant with two opportunities to participate in a move out condition inspection. It is not enough for a landlord to ask a tenant to "let me know when a good time to complete the inspection..." but rather the landlord is required to provide a date and a time. I also find that the resident manager, acting as a agent for the landlord, communicated and expressed an opinion that the rental unit was in good condition on either December 30th or 31st and therefore there was no grounds for the tenant to expect that a further inspection in the absence of the landlord expressly making an appointment to do so.

I also find that the landlord did not have the tenant's written consent to retain a portion of her security deposit contrary to section 38(1) of the *Act* and the landlord failed to file an application for dispute resolution to retain a portion of the tenant's security deposit.

As a result I find that the tenant is entitled to the return of her security deposit plus interest for the sum of **\$406.52**. I grant the tenant a monetary Order for this sum. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The tenant's application is granted and I have Ordered that the landlord return to the tenant her security deposit plus interest.

Dated May 14, 2009.

Dispute Resolution Officer