



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application for a monetary Order for return of the security deposit and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

The tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent on June 10, 2009 to the Landlord via registered mail at the address noted on the Application. The address used is the service address provided by the Landlord on the residential tenancy agreement. Tracking number 79360455435 was provided as evidence of service. These documents are deemed to have been served in accordance with section 89 of the *Act*.

Preliminary Matter

The hearing commenced at the scheduled time of 9:00 a.m. and a decision was rendered at approximately 9:09 a.m. At 9:10 a.m. the Landlord entered the conference call hearing. I introduced myself and the other participants and told the Landlord that I had just issued my decision. However, I did review the testimony with the Landlord and provided the Landlord with an opportunity to be heard.

The Tenant testified that she did not receive the evidence submitted by the Landlord. At the conclusion of the hearing the Tenant provided the Landlord with her mailing address which is identical to that included on the Tenant's Application for Dispute Resolution.

Issue(s) to be Decided

The issues to be decided are whether the Tenant is entitled to a monetary Order for return of the deposit paid and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy commenced on August 1, 2008 and terminated on March 31, 2009. The Tenant paid a security deposit of \$512.00 on July 24, 2008.

On March 31, 2009 the Tenant provided the Landlord with a written forwarding address during an attempted move-out condition inspection that the tenant had arranged with the Landlord. The Tenant stated that the Landlord would not complete the inspection or sign the inspection report.

The Tenant's witness testified that she had brought two copies of the inspection report with her to the rental unit on March 31 and that she gave one to the Landlord and kept the other copy. The witness testified that the Landlord's copy of the inspection report included the tenant's forwarding address and that the Landlord was asked to return the deposit to that address. The Tenant testified that the deposit has not been returned. The Landlord testified that he has a claim for cleaning costs but has not applied for dispute resolution. The Landlord confirmed he has not returned the deposit to the Tenant.

Analysis

Section 38 of the Act determines that the Landlord must, within 15 days after the later of the date the tenancy ends and the date the Landlord received the Tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the Landlord has failed to comply with section 24(2) (landlord failure to meet start of tenancy condition report requirements) or 36 (2) (landlord failure to meet end of tenancy condition report requirements) the Landlord **must** pay double the deposit. (emphasis added.)

I have no evidence before me that a move-in condition inspection was completed. A move-out condition inspection was attempted by the Tenant, but not successfully completed. Further, the Landlord has confirmed that the deposit was not repaid as requested by the Tenant. Therefore, I find that the tenant is entitled to return of double the \$512.00 deposit paid to the Landlord.

I find that the Tenant's application has merit, and I find that the Tenant is entitled to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Tenant has established a monetary claim, in the amount of \$1,074.00, which is comprised of double the deposit in the sum of \$1,024.00 and \$50.00 in compensation for the filing fee paid by the Tenant for this Application for Dispute Resolution.

Based on these determinations I grant the Tenant a monetary Order for \$1,074.00. In the event that the Landlord does not comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated August 06, 2009.

Dispute Resolution Officer