



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD and FF

Introduction

This hearing was in response to an Application for Dispute Resolution, in which the Tenant applied for the return of double her security deposit and to recover the filing fee from the Landlord for the cost of filing this application.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord via registered mail at the service address noted on the Application, on August 18, 2009. She submitted no documentary evidence to corroborate this statement. The Landlord submitted documents to the Residential Tenancy Branch, which he also served on the Tenant, on December 03, 2009 which clearly indicates that he received the Tenant's Application for Dispute Resolution. In his written submission the Landlord declared that he would be unable to participate in the hearing due to his employment. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Landlord did not appear at the hearing.

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 and to recover the cost of filing this Application for Dispute Resolution.

Background and Evidence

The Tenant stated that this tenancy began on September 01, 2008; that she paid a security deposit of \$625.00 on August 21, 2008; that this tenancy ended on July 31, 2009; that the Tenant did not authorize the Landlord to retain the security deposit; that the Landlord did not return any portion of the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

The Tenant stated that she sent the Landlord her forwarding address, by mail, on, or about August 08, 2009.

The Landlord submitted written document, including a signed tenancy agreement; that corroborates the Tenant's statement that she paid a security deposit of \$625.00. He submitted a letter in which he outlines a variety of problems with this tenancy, including damage to the rental property, letters of complaints regarding the behavior of the Tenant, and fines that were imposed during this tenancy. The Landlord does not indicate that he has returned the security deposit or that he has filed an Application for Dispute Resolution in relation to the deposit.

Analysis

The evidence shows that the Tenant paid a security deposit of \$625.00; that the Landlord did not return any portion of the security deposit; that the Tenant did not authorize the Landlord to retain any portion of the security deposit; that the Landlord did not file an Application for Dispute Resolution claiming against the deposit; and that the Landlord did not have authorization to retain any portion of it.

On the basis of the evidence provided by the Tenant, and in the absence of evidence to the contrary, I find that this tenancy ended on July 31, 2009 and that the Tenant provided the Landlord with a forwarding address, in writing, in August of 2009.

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 the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution.

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 any interest due on the original amount.

Conclusion

I find that the Tenant has established a monetary claim of \$1,303.41, which is comprised of double the security deposit, \$3.41 in interest on the original amount of the security deposit, and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, 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.

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: December 11, 2009.

Dispute Resolution Officer