



Dispute Resolution Services

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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 his security deposit.

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. The Tenant provided a tracking number for the package that was sent to the Landlord. The Canada Post website shows the mail was returned to the sender on September 09, 2009. 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 the security deposit paid in relation to this tenancy.

Background and Evidence

The Tenant stated that this tenancy began in October of 2008; that this tenancy ended on May 01, 2009; that he paid a security deposit of \$375.00 on, or about, October 01, 2008; that he 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 on May 01, 2009 he met with an agent for the Landlord; that he gave her a "change of address card" from Canada Post that had his forwarding address on it; that she slid the card back across the table and advised him that she did not need it; and that on May 27, 2009 he personally delivered a letter that provided the Landlord with his forwarding address to an agent for the Landlord who worked in the office of the residential complex. A copy of that letter, dated May 20, 2009, was submitted in evidence.

Analysis

On the basis of the evidence provided by the Tenant, and in the absence of evidence to the contrary, I find that the Tenant paid a security deposit of \$375.00; 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 May 01, 2009 and that the Tenant provided the Landlord with a forwarding address, in writing, on two occasions during the month of May.

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 \$751.41, which is comprised of double the security deposit plus \$1.41 in interest on the original amount of the 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.

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