



Dispute Resolution Services

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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 his 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 20, 2009. The Tenant provided a tracking number from Canada Post to corroborate this statement. The Canada Post website shows the mail was returned to the sender on September 08, 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 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 July 01, 2007; that he paid a security deposit of \$750.00 on May 31, 2007; that the tenancy ended on May 30, 2009; 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 security deposit.

The Tenant stated that on June 10, 2009 the Landlord sent him a “text message” asking for a forwarding address; that on June 10, 2009 at 1526 hours the Tenant sent the Landlord a “text message” in which he provided the Landlord with a forwarding address;

that on June 11, 2009 at 1017 hours sent him a "text message" advising that he had received the forwarding address.

The Tenant stated that the Landlord mailed a cheque, in the amount of \$394.25, to his forwarding address and that he received that cheque approximately one month ago. Although he is not certain of the date that the cheque was received, he is certain that he received it after he filed this Application for Dispute Resolution.

The Tenant agrees that he broke a mirrored glass door and he agrees that he is responsible for repairing that damage. He stated that he has received a copy of an invoice for the door, in the amount of \$330.75, and he stated that he would like to compensate the Landlord for that damage by deducting \$330.75 from any monetary claim he is awarded at the conclusion of this matter.

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 \$725.00 on May 31, 2007; 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 30, 2009 and that the Tenant provided the Landlord with a forwarding address, in writing, in an electronic format on June 10, 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 deposit. In the circumstances before me, I find that the Landlord failed to comply with section 38(1), as the Landlord did not repay the security deposit or file an Application for Dispute Resolution within fifteen days of receiving the Tenant's forwarding address on June 10, 2009.

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.

The evidence shows that the Landlord has already returned a portion of the security deposit, in the amount of \$394.25 and that the Tenant has now authorized the Landlord to retain \$330.75 in compensation for damages caused to the rental unit.

Conclusion

I find that the Tenant has established a monetary claim of \$1,517.38, which is comprised of double the security deposit, \$17.38 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. I am reducing the amount of this monetary claim by \$394.25, which has already been returned to the Tenant by the Landlord, and by \$330.75, which is the amount that the Tenant has now authorized the Landlord to retain in compensation for damages.

On this basis, I am issuing a monetary Order in the amount of \$792.38. 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 16, 2009.

Dispute Resolution Officer