

DECISION

Dispute Codes: MNSD and FF

Introduction

This application was brought by the tenants seeking return of their security deposit in double on the grounds that the landlord did not return it or make application to claim it within 15 days of the end of the tenancy as required under section 38(1) of the *Act*. The tenants also seek to recover the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on September 1, 2009, the landlord did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, the hearing proceeded in her absence.

Issue(s) to be Decided

This matter requires a decision on whether the tenants are entitled to Monetary Order for return of the security deposit and recovery of the filing fee for this proceeding.

Background and Evidence

This tenancy ran from on October 1, 2008 to June 30, 2009. Rent was \$1,300 per month and the landlord holds a security deposit of \$650 paid on or about October 1, 2008.

During the hearing, the tenant gave evidence that she had advised the landlord by email in April of 2009 that she and her roommate would be vacating the rental unit on June 30, 2009. At the landlord's request, she provided notice again by letter in May.

The tenant stated that she and the landlord inspected the rental unit on June 21, 2009 after her furnishings were removed, although no condition inspection form was signed. She stated that she provided the landlord with her forwarding address that day and the landlord gave assurance that the security deposit would be returned within 15 days of the end of the tenancy.

When she had not received the deposit by July 21, 2009, the tenant telephoned the landlord to enquire about it and was again assured that it would be returned. It had not been returned by August 28, 2009 when the tenant made the present application and remained so at the time of the hearing.

Analysis

Section 38(1) of the *Act* provides that, within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address, a landlord must return the deposit or make application for dispute resolution to claim against it.

Section 38(6) of the *Act* states that if the landlord does not comply with section 38(1), the landlord may not claim against the deposit and must pay the tenant double the amount of the deposit.

In this instance, I find that the landlord failed to meet the requirements of section 38(1) of the *Act* and must return the deposit in double with interest on the bare deposit.

I further find that the tenants are entitled to recover the filing fee for this proceeding for a total award calculated as follows:

Security deposit	\$ 650.00
Interest (October 1, 2008 to date)	2.45
To double security deposit	650.00
Filing fee	50.00
TOTAL	\$1,352.45

Conclusion

Thus, the tenants' copy of this decision is accompanied by a Monetary Order for \$1,352.45, enforceable through the Provincial Court of British Columbia, for service on the landlord.