

DECISION

Dispute Codes: MNSD FF

Introduction

This application was brought by the tenant seeking a Monetary Order for return of her security deposit on the grounds that it was not returned within 15 days of the latter of end of the tenancy or receipt of the tenant's forwarding address.

Despite having been served with the Notice of Hearing sent by registered mail on October 15, 2009, the landlord did not call in to the number provided to enable participation in the telephone conference call hearing. Therefore, it proceeded in the landlord's absence.

Issue(s) to be Decided

This matter requires a decision on whether the tenant is entitled to Monetary Order for return of the security deposit and whether the amount should be doubled under section 38(6) of *the Act*.

Background and Evidence

This tenancy ran from November 23, 2005 to August 1, 2009. Rent was \$585 and the landlord holds a security deposit of \$282.50 paid on November 23, 2005.

During the hearing, the tenant gave evidence that she had provided the landlord's agent with her forwarding address in writing on September 1, 2009 and again on October 14, 2009 and requested return of the balance of the security deposit owed to her.

The tenant stated that she had agreed that the landlord could retain \$48 from the security deposit to cover a rent shortfall. However, she stated that the landlord had promised to return the balance by mail.

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.

A accept the evidence of tenant that the security deposit has not been returned and the landlord has not made application to claim upon it.

I find that the landlord is, therefore, in breach of section 38(1) of the *Act* and subject to an order to repay the balance of the security deposit in double as prescribed at section 38(6) of the *Act*.

Thus, I find that the tenant is entitled to a Monetary Order calculated as follows:

Security deposit	\$282.50
Less amount tenant agreed to surrender	- 48.00
Balance due to tenant	\$234.50
To double balance due to tenant	234.50
Interest on initial \$282.50 deposit (November 23, 2005 to date)	10.00
TOTAL	\$479.00

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order for **\$479.00**, enforceable through the Provincial Court of British Columbia, for service on the landlord.

January 20, 2010