



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, (FF)

Introduction

This matter dealt with an application by the Tenant for the return of his security deposit, and to recover the filing fee for this proceeding.

The Tenant said he served the Landlord with a copy of the Application and Notice of Hearing by registered mail to his residential address on October 27, 2009. Based on the Tenant's evidence, I find that the Landlord has been served with the hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of his security deposit and if so, how much?

Background and Evidence

This tenancy started on May 1, 2008 and ended on September 30, 2009 when the Tenant moved out pursuant to a 2 Month Notice to End Tenancy for Landlord's Use of Property. Rent was \$1,200.00 per month. The Tenant paid a security deposit of \$600.00 at the beginning of the tenancy.

The Tenant said he gave his forwarding address in writing to the Landlord in person on September 3, 2009. The Tenant claimed that the Landlord did not return his security deposit and that he did not give the Landlord written authorization to keep his security deposit.

Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date he receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit or to make an application for dispute resolution to make a claim against it. If the Landlord does not do either one of these things and does not have the Tenant's written authorization to keep the security deposit



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then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit to the Tenant.

RTB Policy Guideline #17 at p. 2 states that “unless the tenant has specifically waived the doubling of the deposit, either on an application for the return of the deposit or at the hearing, the arbitrator will order the return of double the deposit.” Although the Tenant applied to recover only the original amount of the security deposit, I find that he did not specifically waive reliance on s. 38(6) of the Act.

I find that the Landlord received the Tenant's forwarding address in writing on September 3, 2009 and that the tenancy ended on September 30, 2009. I also find that the Landlord did not return the Tenant's security deposit and did not make an application for dispute resolution to make a claim against the deposit. I further find that the Landlord did not have the Tenant's written authorization to keep the security deposit. As a result, I find that pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit (\$1,200.00) to the Tenant with accrued interest of \$6.02 (on the original amount). As the Tenant has been successful in this matter, he is also entitled pursuant to s. 72 of the Act to recover the \$50.00 filing fee he paid for this proceeding.

Conclusion

A Monetary Order in the amount of **\$1,256.02** has been issued to the Tenant and a copy of the Order must be served on the Landlord. If the amount is not paid by the Landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: February 22, 2010.

Dispute Resolution Officer