



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

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

Issues(s) to be Decided

1. Is the Tenant entitled to the return of his security deposit?

Background and Evidence

This fixed term tenancy started on November 1, 2008 and ended on October 31, 2009 when the Tenant moved out. Rent was \$1,900.00 per month. The Tenant paid a security deposit of \$950.00 on September 21, 2008. The Tenant said that the Landlord has not returned his security deposit and that he did not give the Landlord written authorization to keep the security deposit.

The Landlord claimed that on October 21, 2009, the Tenant told him that he wanted to stay until November 15, 2009 and that the Landlord could keep his security deposit in payment of ½ of a month's rent. The Landlord also claimed that the Tenant called him 5 days later and advised him that the Tenant would be moving out on October 31, 2009 instead. The Landlord said that he kept the Tenant's security deposit because he lost rental income for November 2009. The Tenant argued that the tenancy agreement provided that the tenancy would end at the end of the fixed term and that he would have to move out.

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

The Tenant admitted that he did not give the Landlord his forwarding address in writing and as a result, I find that s. 38(6) of the Act does not apply. However, the Landlord did



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
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not make an application for dispute resolution and I find that the Tenant did not give the Landlord written authorization to keep the security deposit. Consequently, I order the Landlord to return the Tenant's security deposit to him with accrued interest of \$3.97. As the Tenant has been successful in this matter, he is also entitled to recover the \$50.00 filing fee he paid for this proceeding.

Conclusion

A monetary order in the amount of **\$1,003.97** has been issued to the Tenant and a copy of it 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 08, 2010.

Dispute Resolution Officer