

DECISION

Dispute Codes: MNSD and FF

Introduction

This application was brought by the tenant seeking return of a portion of her security deposit in double pursuant to section 38(6) of the *Act* on the grounds that the landlord did not return it within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address. The tenant also seeks to recover the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on November 17, 2009, the landlord did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issues to be Decided

This application requires a decision on whether the tenant is entitled to a Monetary Order for return of a portion her security deposit, and whether the amount should be doubled.

Background and Evidence

This tenancy began on December 1, 2007 and ended on October 31, 2009. Rent was \$1,430 per month and the landlord held a security deposit of \$695 paid on or about December 1, 2007.

During the hearing, the tenant gave evidence that she had agreed to the landlord retaining \$170 of the security deposit and that the landlord had returned \$435 (with no interest), of which \$10 was return of overpayment rent in February of 2009.

The tenant provided a copy of her letter to the landlord dated October 21, 2009, advising of her forwarding address and requesting return of the security deposit and the over payment of the February rent.

Analysis

Section 38(1) of the *Act* provides that a landlord must, within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address either return the security deposit or make application for dispute resolution to make a claim against it. Section 38(6) of the *Act* states that, if the landlord does not comply with section 38(1), the landlord must pay the tenant double the amount.

In the absence of any evidence to the contrary, I find that the landlord did retain a portion of the security deposit without the tenant's consent and that the tenant is entitled to that amount doubled plus interest on the initial deposit and recovery of the filing fee for this proceeding, calculated as follows:

Initial security deposit	\$695.00
Less deduction agreed to by tenant	- 170.00
Less amount returned to tenant (\$435 - \$10 rent over payment)	- <u>425.00</u>
Sub total (amount retained without consent)	\$100.00
Interest due (December 1, 2007 to October 31, 2009)	11.33
To double amount of deposit retained without authorization	100.00
Filing fee	<u>50.00</u>
TOTAL	\$261.33

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order for \$261.33, enforceable through the Provincial Court of British Columbia, for service on the landlord.

March 22, 2010