



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD, MNDC

Introduction

This was a cross-Application hearing. The tenant acknowledged receipt of the landlord's Application and evidence; however the landlord did not attend the hearing.

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application for a monetary Order for return of the security deposit and for compensation for damage or loss.

The landlord has made application to retain the deposit paid.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent on December 21, 2009 to the landlord via registered mail at the address noted on the Application. A copy of a Canada Post receipt was provided as evidence of service. The tenant used the service address supplied by the landlord on his Application served to the tenant via registered mail.

These documents are deemed to have been served in accordance with section 89 of the Act; however the landlord did not appear at the hearing.

Issue(s) to be Decided

Is the tenant entitled to return of the deposit paid?

Is the tenant entitled to compensation for damages or loss?

Background and Evidence

The tenancy commenced in 2002; on July 28, 2002 a deposit in the sum of \$162.50 was paid. The tenant moved out of the rental unit on November 1, 2009.

The tenant confirmed that the landlord served him a copy of a December 3, 2009, Notice of a Dispute Resolution Hearing to his correct forwarding address. On December 17, 2009 the tenant submitted his Application for dispute resolution. The landlord's evidence indicates that on November 21, 2009 the landlord received the tenant's written forwarding address. A copy of the note was supplied as evidence by the landlord.

The tenant is requesting return of his deposit paid. During the hearing the tenant abandoned the balance of his claim made against the landlord.

The tenant testified that on December 11, 2009 he provided the landlord with a written forwarding address, sent by registered mail to the landlord. The tenant testified that the deposit has not been returned. The tenant confirmed that prior to December 11, 2009; the landlord did have his correct forwarding address.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

A written forwarding address sent to the landlord via registered mail on December 11, 2009 is deemed served on December 16, 2009. Even if the landlord first received the forwarding address on December 16, 2009, the landlord had made an Application claiming against the deposit and used the correct forwarding address that the landlord's evidence indicates was supplied on November 21, 2009. In either case, I find that the landlord claimed against the deposit within fifteen days, as required by section 38 of the Act.

Therefore, I find that the tenant is entitled to return of his deposit plus interest in the sum of \$168.25.

As the tenant abandoned his claim for damages or loss, I find, that the tenant has failed to support his claim with evidence or testimony and that this portion of the Application is dismissed.

As the landlord failed to attend his hearing and was served with Notice of the tenant's hearing, I find that the landlord's Application is dismissed.

I have made no finding in relation to the effective end date of this tenancy.

Conclusion

I find that the tenant has established a monetary claim, in the amount of \$168.25, which is comprised of the deposit paid plus interest and I grant the tenant a monetary Order in that amount.

In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The tenant abandoned the balance of his monetary claim and I find that the portion of the claim for damages and loss is dismissed.

The landlord's claim for dispute resolution is dismissed.

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: April 07, 2010.

Dispute Resolution Officer