

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have made application for a monetary Order for return of the security deposit, compensation for damage or loss and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing.

Issue(s) to be Decided

Are the tenants entitled to return of double the deposit paid?

Are the tenants entitled to compensation for damage or loss?

Are the tenants entitled to filing fee costs?

Background and Evidence

The tenancy commenced on August 1, 2007 and a deposit in the sum of \$475.00 was paid on that date. The tenancy ended on November 23, 2009; the landlord confirmed that within a day the tenants had given her their written forwarding address.

The tenants have not received return of their deposit.

When the tenants moved into the rental unit they were provided with some paint and painted the apartment. The tenants are claiming 14 hours of labour at \$10.00 per hour plus paint costs in the sum of \$226.82.

The landlord confirmed that the tenants did paint the unit, as they were having a baby and wanted a fresh unit. The rental unit had been painted the previous year.

The tenant's served the landlord with copies of the receipts for costs, but the agent was not provided with these documents. Copies of the receipts were not served to the Residential Tenancy Branch.

The parties agreed that a move-out condition inspection was completed and that there was no dispute in relation to the state of the rental unit at the end of the tenancy.

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.

The amount of deposit owed to a tenant is also contingent on any dispute related to damages and the completion of move-in and move-out condition inspections. In this case there is no evidence that the landlord claimed against the deposit.

The landlord has not returned the deposit to the tenants, as confirmed by the landlord's agent during this hearing. Therefore, pursuant to section 38(6) of the Act, I find that the tenants are entitled to return of double the \$475.00 deposit paid to the landlord plus interest in the sum of \$10.16.

In relation to the claim for painting costs and labour, I find that the tenants contracted to complete this work outside of the terms of the tenancy agreement and that this matter is not within the jurisdiction of the Act.

I find that the tenant's application has merit, and I find that the tenant's are entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Conclusion

I find that the tenants have established a monetary claim, in the amount of \$1,010.16, which is comprised of double the deposit in the sum of \$950.00, interest of \$10.16 and \$50.00 in compensation for the filing fee paid by the tenants for this Application for Dispute Resolution.

Based on these determinations I grant the tenants a monetary Order for **\$1,010.16**. 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 claim for damages or loss in relation to painting does not fall within the jurisdiction of the Act.

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: June 14, 2010.

Dispute Resolution Officer