

DECISION

Dispute Codes: MNSD and FF

Introduction

This application was brought by the tenants on April 16, 2010 seeking a Monetary Order for return of their security deposit after the landlords did not return it or make application to claim upon it with 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address. The tenants also seek to recover the filing fee for this proceeding from the landlords.

Despite having been served with the Notice of Hearing sent by registered mail on April 22, 2010, the landlords did not call in to the number provided to enable their participation in the telephone conference call hearing. While the landlords did not pick up the registered mail, the tenants met their obligation with respect to service under section 90 of the *Act*. Therefore, the hearing proceeded in the absence of the landlords.

Issues to be Decided

This application requires a decision on whether the tenants are entitled to a Monetary Order for return their security deposit and whether the amount should be doubled.

Background and Evidence

This tenancy began on July 1, 2009 and officially ended on March 31, 2010, although the tenants moved before the end of the month. Rent was \$980 per month and the tenants paid a security deposit of \$490 on June 16, 2009.

During the hearing, the tenant gave evidence that she had provided the landlord with her forwarding address two weeks prior to moving out. She stated that she had enquired of the landlords as to what work they might want done to ensure return of the deposit, and the landlords stated they would not return it.

Analysis

Section 38(1) of the *Act* provides that, within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address, the landlord must return the security deposit to the tenant or make application for dispute resolution to claim upon it.

In this matter, I find as fact that the landlords did not make application to claim the deposit within 15 days of the end of the tenancy, that they had the tenants' forwarding address, and that the deposit has not been returned.

Section 38(6) of the *Act* states that a landlord who does not comply with section 38(1), "must pay the tenant double the amount of the security deposit..."

Therefore, I find that the tenants are entitled to recover the \$490 deposit in double.

As the application has succeeded on its merits, I find that the tenants should recover their filing fee for this proceeding from the landlords.

Thus, I find that the landlords owe to the tenants an amount calculated as follows:

To return the tenant's security deposit (No interest due)	\$ 490.00
To double security deposit as required by S. 38(6)	490.00
Filing fee	<u>50.00</u>
TOTAL	\$1,030.00

Conclusion

The tenants' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$1,030.00 for service on the landlords.

June 16, 2010