

DECISION

Dispute Codes:

MNSD

Introduction

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 double the security deposit.

The landlord was present at the scheduled start time of the hearing; 10:30 a.m., the tenants did not enter the conference call hearing until 10:37 a.m., at which time I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process.

They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

Preliminary Matter

At the start of the hearing the tenants provided testimony that on July 4, 2010, they had submitted twenty-four pages of evidence to the Residential Tenancy Branch (RTB) and the landlord. The landlord had not received this evidence and there was no record of the RTB having received the evidence. The tenant decided to proceed and relied upon the provision of oral testimony.

Issue(s) to be Decided

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

Background and Evidence

The parties agreed this was a fixed-term tenancy that commenced on December 1, 2008, and ended November 30, 2009; the end of the fixed-term. On December 1, 2008 the tenants paid a deposit in the sum of \$750.00.

At the end of the tenancy the parties completed a move-out condition inspection; there was no dispute at that time. The landlord confirmed receipt of a December 14, 2009 email from the tenants, which provided their written forwarding address. The landlord responded to the email and shortly afterward the tenants received a cheque in the sum of \$750.00. On December 22, 2009, the landlord placed a stop-payment on the cheque as the landlord determined that he needed to paint the rental unit.

The landlord confirmed that he did not submit an Application claiming against the deposit within fifteen days of December 14, 2009.

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 dispute related to damages before me.

The landlord did repay the deposit within fifteen days of receipt of the forwarding address; however, this payment was nullified when the landlord placed a stop payment on the cheque. Therefore, I find that the tenants are entitled to return of double the \$750.00 deposit paid to the landlord, plus .95 cents interest.

Conclusion

I find that the tenants have established a monetary claim, in the amount of \$1,500.95, which is comprised of double the deposit paid plus .95 cents interest.

Based on these determinations I grant the tenants a monetary Order for \$1,500.95. 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.

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: July 14, 2010.

Dispute Resolution Officer