

DECISION

Dispute Codes:

MNSD and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of double her security deposit and to recover the filing fee from the Landlord for the cost of filing this application.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord via registered mail at the service address noted on the Application, on April 08, 2010. The Tenant cited a Canada Post tracking number to corroborate this statement. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Landlord did not appear at the hearing.

Issue(s) to be Decided

The issue to be decided is whether the Tenant is entitled to the return of double the security deposit paid in relation to this tenancy and to recover the cost of filing this Application for Dispute Resolution.

Background and Evidence

The Tenant stated that this tenancy began on October 01, 2005; that she paid a security deposit of \$355.00 on, or about, September 30, 2005; that the tenancy ended on January 31, 2010; that she provided the Landlord with her forwarding address for the Tenant, in writing, on, or about, January 31, 2010; that the Tenant authorized the Landlord to retain \$65.00 of the security deposit for cleaning; that the Landlord did not return the remaining portion of the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against any part of the security deposit.

Analysis

On the basis of the evidence provided by the Tenant, and in the absence of evidence to the contrary, I find that the Tenant paid a security deposit of \$355.00; that the Landlord did not return any portion of the security deposit; that the Tenant only authorized the Landlord to retain \$65.00 from her security deposit; that the Landlord did not file an Application for Dispute Resolution claiming against any part of the deposit; and that the Landlord did not have authorization to retain any portion of it.

On the basis of the evidence provided by the Tenant, and in the absence of evidence to the contrary, I find that this tenancy ended on January 31, 2010 and that the Tenant

provided the Landlord with a forwarding address, in writing, on or about, January 31, 2010.

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit plus interest or make an application for dispute resolution claiming against the deposits. In the circumstances before me, I find that the Landlord failed to comply with section 38(1), as the Landlord has not repaid any portion of the security deposit or filed an Application for Dispute Resolution.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1), the Landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit that was paid, plus any interest due on the original amount.

Conclusion

I find that the Tenant has established a monetary claim of \$707.57, which is comprised of double the security deposit, less the \$65.00 the Landlord was authorized to retain; \$12.57 in interest on the original amount of the security deposit; and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be 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 29, 2010.

Dispute Resolution Officer