

Decision

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for double return of the security deposit and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenant is entitled to the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy was limited to the period from February 9 to March 1, 2010. The unit was rented in association with the attendance of visitors to Vancouver for the 2010 Winter Olympics. Rent of \$3,000.00, and a security deposit of \$1,000.00 were both collected near the beginning of February. The unit was rented as furnished, however, there was no inventory created of items included in the unit. Further, neither a move-in condition nor a move-out condition inspection or report were completed by the parties.

Shortly after assuming possession of the unit after the end of tenancy, the landlord determined that certain furnishings were missing. He then obtained what he considered was an accurate assessment of the value of the missing items in the amount of \$694.00, and withheld this amount from the security deposit. He returned the balance of the security deposit to the tenant in the amount of \$306.00 (\$1,000.00 - \$694.00).

Analysis

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**, and provides in part as follows:

38(1) Except as provided in subsection (3) or (4)(a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Further, section 38(6) of the Act provides:

38(6) If a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

Included in the documentary evidence submitted by the tenant is a document dated in March 2010 (the exact date cannot be determined), and signed by the landlord, which reads in part as follows:

I have been informed by the tenant that the security deposit associated with this rental must be returned to the following forwarding address:

[tenant's actual address deleted for privacy]

However, further to the above, section 4 of the Act speaks to **What this Act does not apply to**, and provides in part as follows:

4 This Act does not apply to

(e) living accommodation occupied as vacation or travel accommodation,...

Following careful consideration of the full circumstances of this dispute, I find that the rental unit at issue was occupied "as vacation or travel accommodation." Accordingly, I find that pursuant to section 4 of the Act, the circumstances of the dispute do not fall within the jurisdiction of the Act, and the application must therefore be dismissed.

Conclusion

As the circumstances of this dispute fall outside the jurisdiction of the Act, the application is hereby dismissed in its entirety.

DATE: July 13, 2010

Dispute Resolution Officer