

Decision

Dispute Codes: MNSD, FF

Introduction

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

Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the landlord did not appear.

Issues to be decided

- Whether the tenant is entitled to either or both of the above under the Act

Background and Evidence

A copy of the written tenancy agreement is not in evidence for the tenancy which began in this particular unit on January 1, 2007. Rent in the amount of \$423.00 was payable in advance on the first day of each month. A security deposit of \$395.00 was collected at the outset of tenancy. A move-in condition inspection report was not completed.

On December 30, 2009, the tenant provided the landlord with notice of intent to end the tenancy effective January 31, 2010. A move-out condition inspection and report were completed at the end of tenancy, and the tenant provided the landlord with his forwarding address on the report. Despite the tenant's request, the landlord has not repaid the security deposit.

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 and pet damage deposit**, and provides in part:

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.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord did not comply with the above statutory provisions.

Accordingly, I find that the tenant has established a claim of **\$851.93**. This is comprised of double the amount of the security deposit which is **\$790.00** (2 x \$395.00), plus

interest calculated on the original amount of the security deposit of \$11.93, in addition to the \$50.00 filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$851.93**. This order may be served on the landlord and, should it be necessary, filed in the Small Claims Court and enforced as an order of that Court.

DATE: July 19, 2010

Dispute Resolution Officer