



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD, FF

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 the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent on April 8, 2010, to the address provided to her by the landlord, via registered mail to the address noted on the Application. A Canada Post tracking number was provided as evidence of service. The tenant testified that the Canada Post tracking information indicated that the mail was successfully delivered on April 9, 2010.

These documents are deemed to have been served in accordance with section 89 of the Act; however the landlord did not appear at the hearing.

Issue(s) to be Decided

Is the tenant entitled to return of the deposit paid?

Is the tenant entitled to filing fee costs?

Background and Evidence

The tenancy commenced on January 15, 2009 and terminated on March 14, 2010. The tenant paid rent to March 14, 2010 and moved out on February 16, 2010. The tenant paid a security deposit of \$1,100.00 on December 9, 2008.

On March 10, 2010, the tenant and landlord met to complete a condition inspection. At this time the tenant began to write her forwarding address on a pad of paper. The tenant was able to write her unit number and street address, at which point the landlord

took the pad from her. The landlord immediately left the rental unit, without giving the tenant an opportunity to complete writing full her address. The tenant immediately left a message on the landlord's telephone, providing him with the complete address.

On March 15, 2010, the tenant sent the landlord an email, which they had used for communication in the past, and she again provided the landlord with her written forwarding address. The landlord replied to the email on the same date and listed a number of items he wished to have assessed for repair. The landlord's email indicated that he would keep the deposit if costs exceeded the value of repairs.

The tenant agrees to a \$100.00 deduction for paint touch-ups.

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.

I find that the tenancy ended on March 14, 2010; as the tenant had paid rent to this point.

I find, pursuant to section 71(2), that the landlord has been sufficiently served with the tenant's forwarding address. The landlord took the pad of paper from the tenant while she was writing the address on March 10, 2010; but it did include the tenant's new unit and street number. Then, the landlord replied to the tenant's March 15, 2010, email, which led me to find that the landlord had then been sufficiently served with the forwarding address, as he responded to an email which included the forwarding address. Further, I find that the landlord was given the written forwarding address on March 10, 2010, when he chose to take the pad of paper from the tenant. The landlord accepted the written address as it was, and this was of his own volition.

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 the tenant has agreed to a \$100.00 deduction from the deposit.

I have no evidence before me that that landlord has repaid the deposit as requested in writing by the tenant. Therefore, I find, pursuant to section 38(6) of the Act, that the tenant is entitled to return of double the \$1,100.00 deposit paid to the landlord, plus \$1.08 interest; less \$100.00 for paint touch-up.

I find that the tenant's application has merit, and I find that the tenant is entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Conclusion

I find that the tenant has established a monetary claim, in the amount of \$2,151.08, which is comprised of double the deposit less \$100.00, interest, and \$50.00 in compensation for the filing fee paid by the tenant for this Application for Dispute Resolution.

Based on these determinations I grant the tenant a monetary Order for \$2,151.08. 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: August 04, 2010.

Dispute Resolution Officer