



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenant for the return of his security deposit plus compensation equal to the amount of the security deposit due to the Landlord's failure to return it within the time limits required under the Act.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on April 30, 2010 to its address for service indicated set out on the Parties' tenancy agreement. The Tenant said the hearing package was returned to him unclaimed. Section 90 of the Act states that a document delivered by registered mail is deemed to be received by the recipient 5 days after it is mailed even if the recipient refuses to accept it. Consequently, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of his security deposit and if so, how much?

Background and Evidence

This tenancy started on July 1, 2008 and ended on August 26, 2009 when the Tenant moved out. Rent was \$680.00 per month. The Tenant paid a security deposit of \$340.00 on June 15, 2008.

The Tenant said he gave his forwarding address in writing to an agent of the Landlord on August 26, 2009 when they completed a move out inspection of the rental unit. The Tenant said he also sent some e-mails to the Landlord and left telephone messages for the Landlord with a request for his security deposit and a reminder about his forwarding address but the Landlord did not respond. The Tenant said he did not give the Landlord written authorization to keep his security deposit and it has not been returned to him.

Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date he or she receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit or to make an



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
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application for dispute resolution to make a claim against it. If the Landlord does not do either one of these things and does not have the Tenant's written authorization to keep the security deposit then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit.

I find that the Landlord received the Tenant's forwarding address in writing on August 26, 2009 but did not return his security deposit and did not make an application for dispute resolution to make a claim against the deposit. I also find that the Landlord did not have the Tenant's written authorization to keep the security deposit. As a result, I find that pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit (\$680.00) to the Tenant with accrued interest of \$2.37 (on the original amount).

As the Tenant has been successful in this matter, I also find pursuant to s. 72 of the Act that he is entitled to recover from the Landlord the \$50.00 filing fee he paid for this proceeding.

Conclusion

A monetary order in the amount of **\$732.37** has been issued to the Tenant and a copy of it must be served on the Landlord. If the amount is not paid by the Landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 10, 2010.

Dispute Resolution Officer