



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD, OLC, and FF

Introduction

This hearing was in response to an Application for Dispute Resolution, in which the Tenant applied for the return of his security deposit, for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)*, and to recover the filing fee from the Landlord for the cost of filing this application. At the hearing the Tenant stated that his application to have the Landlord comply with the Act relates to a claim for double the security deposit.

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 May 11, 2010. The returned envelope with a tracking number attached was submitted in evidence. Canada Post notations on the returned letter indicates that the letter was "refused". 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 July 30, 2006; that he paid a security deposit of \$750.00 on July 29, 2006; that the tenancy ended on December 31, 2009; that the Tenant did not authorize the Landlord to retain the security deposit; that the Landlord did not return any portion of the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

The Tenant stated that he mailed a letter, via registered mail, to the Landlord at the service address noted on the Application on February 01, 2010. The Tenant cited a

Canada Post tracking number which corroborates this statement. He stated that he provided the Landlord with his forwarding address in the letter he sent in February.

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 \$750.00; that the Landlord did not return any portion of the security deposit; that the Tenant did not authorize the Landlord to retain any portion of the security deposit; that the Landlord did not file an Application for Dispute Resolution claiming against 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 December 31, 2009 and that the Tenant mailed his forwarding address to the Landlord on February 01, 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 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 \$1,574.34, which is comprised of double the security deposit, \$24.34 in interest on the original amount of the security deposit, and \$50.00 as compensation for 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: September 14, 2010.

Dispute Resolution Officer