



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenants for the return of a security deposit, for compensation equivalent to the amount of the security deposit due to the Landlords' alleged failure to return the deposit within the time limits required under the Act and to recover the filing fee for this proceeding.

The Tenants said they served the Landlords with the Application and Notice of Hearing (the "hearing package") by registered mail. Section 90 of the Act says that a document delivered in this manner is deemed to be received by the recipient 5 days later even if the recipient refuses to pick up the mail. Based on the evidence of the Tenants, I find that the Landlords were served with the Tenants' hearing package(s) as required by s. 89 of the Act and the hearing proceeded in the Landlords' absence.

At the beginning of the hearing, the Tenants were granted leave to amend their application to clarify their given and surnames which were not clear on the face of their application.

Issues(s) to be Decided

1. Are the Tenants entitled to the return of their security deposit and if so, how much?

Background and Evidence

This tenancy started on September 15, 2009 and ended on February 28, 2010 when the Tenants moved out. Rent was \$795.00 per month. The Tenants said they paid a security deposit of \$485.00 at the beginning of the tenancy.

The Tenants said that they did a move out condition inspection report with the Landlord (C.T.) on February 27, 2010 and gave him their forwarding address in writing (on the condition inspection report) at that time. The Tenants said they agreed in writing that the Landlords could deduct \$50.00 from their security deposit because they moved out early. The Tenants said they have not received the balance of their security deposit.



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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 receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit or to make an 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 Landlords received the Tenants' forwarding address in writing on February 27, 2010 and that the tenancy ended on February 28, 2010. I also find that the Landlords did not return the Tenants' security deposit and did not have the Tenants' written authorization to keep any more than \$50.00 of the security deposit. As a result, I find pursuant to s. 38(6) of the Act that the Landlords must return double the amount of the security deposit or \$970.00 to the Tenants (less the \$50.00 authorized deduction). As the Tenants have been successful in this matter, I also find that they are entitled pursuant to s. 72 of the Act to recover the \$50.00 filing fee for this proceeding.

Double Security Deposit:	\$970.00
Filing Fee:	<u>\$50.00</u>
Subtotal:	\$1,020.00
Less: Authorized Deduction:	<u>(\$50.00)</u>
Balance Owing:	\$970.00

Conclusion

A Monetary Order in the amount of **\$970.00** has been issued to the Tenants and a copy of it must be served on the Landlords. If the amount is not paid by the Landlords, 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: September 27, 2010.

Dispute Resolution Officer