



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenant for the return of a security deposit. The tenant participated in the conference call hearing but the landlord did not, the tenant gave affirmed testimony. The tenant presented evidence that the landlord was served with the application for dispute resolution and notice of hearing by registered mail on June 9, 2010. I found that the landlord had been properly served with notice of the tenant's claim and the date and time of the hearing and the hearing proceeded in his absence.

Issues(s) to be Decided

Whether the tenant is entitled to return of any or all of the security deposit.

Background and Evidence

This tenancy started on November 1, 2009 and ended on March 31, 2010. Rent was \$850.00 per month. The tenant testified that he paid a security deposit of \$850.00 on November 9, 2009.

The tenant testified that the tenancy was a month to month tenancy and that there was no signed tenancy agreement in place.

On February 24, 2010 the tenant provided the landlord with 30 days written notice that he was vacating the rental unit effective March 31, 2010.

The tenant gave his forwarding address in writing to the landlord on April 7, 2009, requesting return of his security deposit; the tenant did not give the landlord written authorization to keep the security deposit.

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 tenants' forwarding address in writing (whichever is later) to either return the tenants' 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 tenants' written authorization to keep the security deposit then pursuant to s.

Section 38(6) of the Act provides that if a landlord does not comply with section 38(1), the landlord may not make a claim against the deposit and must pay the tenant double the amount of the security deposit.

Based on the documentary evidence and testimony I find that the landlord received the tenants' forwarding address in writing on April 7, 2009 but did not return the security deposit. I also find that the landlord did not have the tenants' written authorization to keep the security deposit. As the landlord did not make application to retain the security deposit within the required time limit, I find pursuant to s. 38(6) of the Act, the landlord is required to return double the amount of the security deposit and the \$50.00 filing fee to the tenant.

I also find that the Landlord contravened the Act in accepting a security deposit of \$850.00. Section 19 of the Act says that a Landlord must not require or accept either a security deposit or a pet damage deposit that is greater than the equivalent of ½ of one month's rent payable under the tenancy agreement.

Conclusion

Based on the above, I find that the tenant is entitled to an order that the landlord pay to him double the security deposit. I therefore order that the landlord pay to the tenant the sum of \$1700.00 representing double the deposit. The tenant is also entitled to recovery of the \$50.00 filing fee.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$1750.00**. 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.



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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: October 21, 2010

Dispute Resolution Officer