



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD and FF

Introduction

This hearing was in response to an Application for Dispute Resolution, in which the Tenants applied for the return of double their security deposit and to recover the filing fee from the Landlord for the cost of filing this application.

The Tenant with the initials "D.F." stated that copies of the Application for Dispute Resolution, Notice of Hearing, and evidence were sent to the Respondent via registered mail at the service address noted on the Application, on May 22, 2010. The Tenant submitted Canada Post documentation that corroborates this statement. The Tenant checked the Canada Post website and determined that the mail was not claimed by the recipient. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Respondent did not appear at the hearing.

The Tenant with the initials "D.F." stated that the same documents that were sent on May 22, 2010 were again sent to the Respondent via registered mail at the service address noted on the Application, on August 19, 2010. The Tenant submitted Canada Post documentation that corroborates this statement. The Tenant checked the Canada Post website and determined that the mail was not claimed by the recipient.

Issue(s) to be Decided

The issues to be decided are whether the Tenants are 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 with the initials "D.F." stated that he moved into the rental unit on April 01, 2009; that he was required to pay monthly rent of \$700.00; that he paid a security deposit of \$350.00 to the Respondent on April 01, 2009; and that he vacated the rental unit on April 01, 2010.

The Tenant with the initials "S.R." stated that he moved into the rental unit on January 01, 2010; that he was required to pay monthly rent of \$700.00; that he paid a security deposit of \$350.00 to the Respondent on January 01, 2010; and that he vacated the rental unit on April 01, 2010.

The Tenant with the initials "D.F." stated that the Respondent also lived in the rental unit for a portion of this tenancy and that she collected the rent money and security deposits on behalf of the owner of the rental unit. He stated that he entered into the tenancy agreement with the Respondent and that he did not meet the owner of the rental unit until after he had entered into the tenancy agreement.

The Tenant with the initials "D.F." stated that neither of them authorized the Respondent to retain the security deposit; that she did not return any portion of the security deposit; and that she did not file an Application for Dispute Resolution claiming against the security deposit.

Both Tenants stated that they provided the Respondent with their forwarding address on April 01, 2010 by writing it on a post-it note and placing it on the table in front of her. The Tenant with the initials "D.F." stated that he also sent a forwarding address to the Respondent via email on April 04, 2010 after the Respondent advised him that the post-it note had been discarded.

Analysis

On the basis of the evidence provided by the Tenants and in the absence of evidence to the contrary, I find that the Tenants entered into a tenancy agreement with the Respondent, who was acting as an agent for the Landlord.

On the basis of the evidence provided by the Tenants and in the absence of evidence to the contrary, I find that the Tenants each paid a security deposit of \$350.00; that the Landlord did not return any portion of the security deposits; that the Tenants did not authorize the Respondent to retain any portion of the security deposits; that the Respondent did not file an Application for Dispute Resolution claiming against the deposits; and that the Respondent did not have authorization to retain any portion of the deposits.

On the basis of the evidence provided by the Tenants and in the absence of evidence to the contrary, I find that this tenancy ended on April 01, 2010 and that the Tenants provided the Respondent with a forwarding address, in writing, on April 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 Respondent failed to comply with section 38(1), as the Respondent 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 Respondent did not comply with section 38(1) of the *Act*, I find that the Respondent must pay the Tenants double the security deposits that were paid.

Conclusion

I find that the Tenants have established a monetary claim of \$1,450.00, which is comprised of double the security deposit and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Respondent 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: October 05, 2010.

Dispute Resolution Officer