

Decision

Dispute Codes: MNDC, MNSD

Introduction

This hearing dealt with an application by the tenant for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement, and recovery of the filing fee. The tenant participated in the hearing and gave affirmed testimony.

The tenant testified that he served the landlord in person with the application for dispute resolution and notice of hearing, on or about the same day he filed his original application which was May 27, 2010. However, the landlord did not appear at the hearing.

Issues to be decided

- Whether the tenant is entitled to either or both of the above under the Act, regulation or tenancy agreement

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on November 15, 2009 and ended in May 2010. Rent in the amount of \$565.00 was payable in advance on the first day of each month. A security deposit of \$282.50 was collected at the outset of tenancy.

Subsequent to the landlord's issuance of 10 day notices for unpaid rent dated, respectively, April 2 and May 2, 2010, a hearing was convened on May 20, 2010 in response to applications by both parties. In the result, an order of possession was issued in favour of the landlord to be effective 48 hours following service upon the

tenant. Further, a monetary order in favour of the landlord was issued for \$660.00.

Thereafter, the tenant alleges that the landlord entered the unit without proper authority and seized miscellaneous of his possessions. In his current application the tenant seeks the return of his security deposit in addition to a monetary order as compensation for the value of all possessions allegedly seized by the landlord.

During the hearing the tenant indicated that his application was made shortly after the time when his possessions were allegedly seized in late May 2010. In the result, he said he was upset and had not taken time to carefully document the items removed, or to assign a particular value to each. For these reasons he withdrew his current application for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement, and he stated his intention to submit a more detailed application for same at a later date.

In relation to the disposition of the tenant's security deposit, there is no evidence before me that he informed the landlord in writing of his forwarding address at the end of tenancy, or that the landlord applied to keep the security deposit.

Analysis

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Section 38 of the Act speaks to **Return of security deposit and pet damage deposit**, and provides in part as follows:

38(1) Except as provided in subsection (3) or (4)(a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

As previously noted, as there is no evidence that the tenant informed the landlord in writing of his forwarding address and requested the return of his security deposit, that option remains available to him.

Conclusion

In light of all the above, the tenant's application is dismissed with leave to reapply.

DATE: October 15, 2010

Dispute Resolution Officer