

Decision

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order in the amount of double the original security deposit, in addition to recovery of the filing fee. The tenant participated in the hearing and gave affirmed testimony.

Despite mailing of the application for dispute resolution and notice of hearing (the “hearing package”) by way of registered mail in July as well as in September 2010, the landlord did not appear. The Canada Post tracking website shows that delivery was attempted, and that a notice card was left indicating where the item could be picked up. However, as the hearing packages were unclaimed by the landlord, both were returned to the tenant.

Issues to be decided

- Whether the tenant is entitled to either or both of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on November 11, 2009. Monthly rent was \$2,200.00 and a security deposit of \$1,100.00 was collected at the outset of tenancy. Two tenants were named on the tenancy agreement: tenant “RMW” (the applicant) and tenant “TT.”

By letter dated January 2, 2010, tenant RMW gave notice of intent to end the tenancy effective February 28, 2010. Subsequently, tenant RMW vacated the unit on or about February 1, 2010, while tenant TT remained in the unit. It is understood that tenant TT later vacated the unit before February 15, 2010 when it is believed new tenants took possession of the unit.

By letter dated February 12, 2010, tenant RMW informed the landlord of his forwarding address and requested the return of his security deposit. However, to date, the security deposit has not been repaid.

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, that if a landlord does not repay the security deposit or file an application for dispute resolution within 15 days after the later of, the date when tenancy ends, or the date when the landlord receives the tenant's forwarding address in writing, the landlord must pay the tenant double the amount of the security deposit.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord failed to comply with the statutory provisions set out in section 38 of the Act, as above. In the result, I find that the tenant has established entitlement to the double return of the security deposit of \$2,200.00 (2 x \$1,100.00).

As the tenant has succeeded in this application, I find he is also entitled to recover the \$50.00 filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$2,250.00** (\$2,200.00 + \$50.00). Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order of that Court.

DATE: December 14, 2010

Dispute Resolution Officer