



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes: MNDC, MNSD, FF

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 / the double return of the security deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

The hearing commenced at 9:30 a.m. and as it progressed, the parties became increasingly argumentative and continued to interrupt and talk over one another. When I asked for closing statements, I cautioned that the hearing would be concluded unless each could await their turn to present. However, the aforementioned behaviours persisted, and after informing the parties that I would mail them my decision later in the week, I concluded the hearing at 10:00 a.m.

Issues to be decided

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

Background and Evidence

Documentary evidence is limited to what was provided by the tenant and includes, but is not limited to, two receipts: one dated May 2 and the other dated May 7, 2010. The former receipt shows notations which include "May Rent & Sec. Deposit." The latter receipt shows notations which include "June, 2010 rent."

There are no documentary submissions before me from the landlord.

There is no written tenancy agreement in evidence for the tenancy which began on or about May 1, 2010 and ended on or about June 30, 2010. The tenant rented a room in a house and shared kitchen and bathroom facilities with others who also rented rooms. It is understood that the landlord lived in the house, however, the landlord testified that he is not the owner of the house.

The tenant claims that monthly rent was comprised of \$550.00 in addition to the performance of "household services as required." The landlord takes the position that the tenant was a house guest who paid a *per diem* rate in addition to completing certain household services. The landlord argued that a calculation of the per diem rate would result in monthly rent of \$1,100.00. The landlord also testified that he offered the tenant a *per diem* rate in order to assist the tenant, and that in addition to performing household services, the tenant had agreed to provide the landlord with a copy of some scientific research which was of interest to him. The landlord claims that the tenant never ultimately provided him with a copy of the scientific research documentation. In the result, the landlord argues that the tenant owes him compensation for rent. Despite the position taken by the landlord, he has not filed an application for dispute resolution. Finally, and as earlier noted, there is no written tenancy agreement and related pertinent evidence is limited to the two receipts referenced above.

By whichever method one goes about calculating rent, the parties agree that \$550.00 was paid for each of the months of May and June 2010. Further, the tenant paid an additional \$550.00 which he testified was a security deposit. The landlord does not dispute that he received a total payment from the tenant in the amount of \$1,650.00 (3 x \$550.00).

By letter dated May 30, 2010, the tenant provided the landlord with a one month notice to end tenancy effective June 30, 2010. In this letter, the tenant also informed the landlord of his forwarding address and requested that the landlord forward the repayment of his security deposit to that address. As the tenant did not receive the repayment requested, he filed an application for dispute resolution on July 20, 2010.

During the hearing the parties were provided with an opportunity to explore the prospect of a mutually agreeable resolution of the dispute, however, for reasons previously set out here, no such settlement was achieved.

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.

Further, section 38(6) of the Act provides:

38(6) If a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

Based on the documentary evidence and testimony of the parties, I find that the tenant paid a security deposit of \$550.00. I further find that the landlord failed to either return the tenant's security deposit or file an application for dispute resolution within 15 days after the end of tenancy. Accordingly, pursuant to the above statutory provisions I find that the tenant has established entitlement to the double return of his security deposit in the total amount of **\$1,100.00** (2 x \$550.00). As the tenant has succeeded in his application, I also find that he is entitled to recover the **\$50.00** filing fee.

Section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the tenant's claim for miscellaneous costs associated with registered mailing of documents, land title and survey fee(s), photocopying and so forth, is hereby dismissed.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$1,150.00** (\$1,100.00 + \$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 8, 2010

Dispute Resolution Officer