



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have made application for a monetary Order for return of the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent on July 29, 2010, to the landlord via registered mail at the address noted on the Application. A Canada Post tracking number was provided as evidence of service. The service address used the address provided by the landlord on the tenancy agreement signed at the start of the tenancy.

These documents are deemed to have been served in accordance with section 89 of the Act, however the landlord did not appear at the hearing.

Issue(s) to be Decided

Are the tenants entitled to return of the deposit paid?

Are the tenants entitled to filing fee costs?

Background and Evidence

The tenancy commenced on June 1, 2009, rent was \$1,800.00 due on the first day of each month. A deposit in the sum of \$850.00 was paid on June 1, 2009 and a pet deposit in the sum of \$500.00 was paid with the September, 2009, rent.

During the last week of May, 2010, the landlord came to the rental unit and the tenants provided their forwarding address, which the landlord wrote down; both tenants and another individual were present.

On June 16, 2010, the tenants sent the landlord a written forwarding address via registered mail to the address provided on the tenancy agreement; a Canada Post tracking number was provided as evidence of service.

The deposit has not been returned.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

The amount of deposit owed to a tenant is also contingent on any dispute related to damages and the completion of move-in and move-out condition inspections. In this case there is no dispute related to damages.

I have no evidence before me that a move-in condition inspection or move-out condition inspection was completed as required by the Act; other than a cursory walk-through the week prior to the tenants moving out. Further, I have no evidence that that landlord has repaid the deposits. Therefore, I find that the tenants are entitled to return of double the \$850.00 damage deposit and \$500.00 pet deposit paid to the landlord. No interest has accrued.

I find that the tenant's application has merit, and I find that the tenants are entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Conclusion

I find that the tenant has established a monetary claim, in the amount of \$2,750.00, which is comprised of double the deposits paid in the sum of \$1,350.00 and \$50.00 in compensation for the filing fee paid by the tenant for this Application for Dispute Resolution.

Based on these determinations I grant the tenants a monetary Order for \$2,750.00. In the event that the landlord does not comply with this Order, it may be served on the landlord, 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: December 16, 2010.

Dispute Resolution Officer