



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNSD FE

Introduction

This is the Tenant's application for a Monetary Order for double the security deposit and to recover the cost of the filing fee from the Landlord.

The Tenant gave affirmed testimony at the Hearing.

The Tenant testified that she served the Landlord with the Notice of Hearing documents by registered mail sent July 23, 2010 to the rental unit. The Tenant testified that the Landlord rents the rental unit from another landlord and that the Landlord was her roommate. The Tenant provided a copy of the tenancy agreement in evidence. The Tenant provided a tracking number for the registered mail documents.

Based on the affirmed testimony and documentary evidence of the Tenant, I am satisfied that the Landlord was sufficiently served with the Notice of Hearing documents. The Landlord did not sign into the teleconference and the Hearing continued in her absence.

The Tenant testified that she also mailed the Landlord copies of her evidence, to the rental unit, on November 19, 2010, by registered mail. The Tenant provided a tracking number for the evidence package.

Issue(s) to be Decided

- (1) Is the Tenant entitled to a monetary order under Section 38(6) of the Act?

Background and Evidence

The Tenant provided the following relevant evidence, orally and in her evidence package:

- The Landlord and the Tenant entered into a tenancy agreement on August 28, 2009, a copy of which was entered in evidence.
- The tenancy started on September 15, 2009 and ended by mutual agreement on March 25, 2010.
- Monthly rent was \$795.00. The Tenant paid a security deposit in the amount of \$398.00 to the Landlord on August 28, 2009.
- The Tenant gave the Landlord her forwarding address in writing on March 25, 2010. The Tenant provided a copy of the written notification in evidence.
- The Landlord did not return the security deposit within 15 days of the end of tenancy or the Landlord's receipt of the Tenant's forwarding address. The Landlord did not make an application claiming against the security deposit or pet damage deposit within 15 days of the end of tenancy or the date the Tenant provided the Landlord with written notification of her forwarding address.

Analysis

Section 38(1) of the Act provides 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** repay any security deposit or pet damage deposit to the tenant with interest, or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Based on the affirmed testimony and documentary evidence provided by the Tenant, and in the absence of any evidence to the contrary from the Landlord, I am satisfied that the Landlord did not return the security deposit, or file against the security deposit,

within 15 days of receipt of the Tenant's forwarding address, which was the same day as the tenancy ended.

Section 38(6) of the Act provides that if a landlord does not comply with Section 38(1) of the Act, the landlord **must** pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

Pursuant to the provisions of Section 38(6) of the Act, I grant the Tenant's application for double the security deposit. No interest has accrued on the security deposit.

The Tenant has been successful in her application and is entitled to recover the filing fee from the Landlord.

I grant the Tenant a monetary order in the amount of \$846.00, calculated as follows:

Double the security deposit	\$796.00
Recovery of the filing fee	<u>\$50.00</u>
Balance owing by the Landlord to the Tenant	\$846.00

Conclusion

I hereby provide the Tenant a monetary order in the amount of \$846.00 against the Landlord. This order must be served on the Landlord and may be filed in the Provincial Court of British Columbia (Small Claims) 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 21, 2010.
