

DECISION

Dispute Codes: MNSD

Introduction

This application was brought by the tenants seeking return of their security deposit in double on the grounds that the landlord did not return it or make application to claim on it within 15 days of the latter of the end the tenancy or receipt of the tenant's forwarding address.

Issues to be Decided

This application requires a decision on whether the tenants are entitled to a Monetary Order for return of the security deposit and whether the amount should be doubled.

Background and Evidence

This tenancy began on March 1, 2009 and ended on May 31, 2010. Rent was \$750 per month and the landlord holds a security deposit of \$375.

During the hearing, the tenant's advocate submitted a copy of a letter to the landlord dated June 10, 2010 providing the landlord with the tenants' forwarding address and requesting return of the security deposit.

By letter of June 14, 2010, the landlord replied that he had claims against the security deposit, and both parties submitted evidence with respect to those claims. However, at the time of the present hearing, the landlord had not made an application for dispute resolution.

As the present application was brought by the tenants and addresses only the return of the security deposit, the merits of the landlord's claims cannot be considered unless and until the landlord makes application.

For the present, the landlord acknowledges that the security deposit was not returned within 15 days of his receiving the tenants' forwarding address and no application has been made.

Analysis

Section 38(1) of the *Act* provides that, within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address, the landlord must return the security deposit to the tenant or make application for dispute resolution to claim upon it.

Section 38(6) of the *Act* states that a landlord who does not comply with section 38(1), "must pay the tenant double the amount of the security deposit..."

In this matter, I must find as fact that the landlord did not make application to claim the deposit within 15 days of the end of the tenancy.

Therefore, I find that the landlord must return the security deposit in double as required by section 38(6) of the *Act*.

I note that in a previous decision on the subject tenancy, the Dispute Resolution Officer's conclusion included the observation that, "It is still open to the tenants to provide proof of payment for Mach upon an application by the landlord for a monetary order." I believe that in addition to the landlord's duty to learn the requirements of the legislation, that statement should alerted the landlord to the necessity of making his own application.

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order for **\$\$750.00**, enforceable through the Provincial Court of British Columbia, for service on the landlord.

November 25, 2010