



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit.

The Tenant's agent said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on September 21, 2010. Based on the evidence of the Tenant's agent, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?

Background and Evidence

This tenancy started on June 1, 2010 as a month to month tenancy. The tenancy ended August 15, 2010. Rent was \$900.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$500.00 on June 20, 2010.

The Tenant's agent said the Tenant moved out of the rental unit on August 15, 2010. The Tenant's agent continued to say the Tenant sent the Landlord his forwarding address in his application package dated September 21, 2010. The Tenant's agent said there was no move in or move out condition inspection reports completed. The Tenant's agent continued to say that they cleaned the unit before leaving and the Tenant asked the Landlord for his security deposit back. He said the Landlord said she would not give him his security deposit back.

The Tenant's agent continued to say the Tenant moved out on August 15, 2010 because the unit did not have hot water and he was told to bath at the local recreation center. As well the Tenant's agent said the Tenant's unit was broken into a number of times. The Tenant's agent said there was no unpaid rent when the Tenant moved out.

Analysis

Section 38 (1) says that 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.

And Section 38 (6) says 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.

I find that the Tenant did send the Landlord his forwarding address by registered mail on September 21, 2010 with the hearing package. Section 90 of the Act says that documents sent by registered mail are deemed to be served 5 days after they are mailed or in this situation they are deemed to have been served on September 26, 2010. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and grant an order for double the security deposit of \$500.00 in the amount of $\$500.00 \times 2 = \$1,000.00$.

As the Tenant was successful in this matter I further order the Tenant to recover the filing fee of \$50.00 for this proceeding from the Landlord. Pursuant to section 67 a monetary order for \$1,050.00 will be issued to the Tenant. This Monetary order represents double the security deposit in the amount of \$1,000.00 and the filing fee of \$50.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$1,050.00 to the Tenant. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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: January 24, 2011.

Residential Tenancy Branch