

DECISION

Dispute Codes: MNSD and FF

Introduction

This application was brought by the tenant on September 28, 2010 seeking return of his 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. The tenant also seeks to recover the filing fee for this proceeding from the landlord.

Issues to be Decided

This application requires a decision on whether the tenant is entitled to a Monetary Order for return of his security deposit, whether the amount should be doubled, and whether the tenant should recover the filing for this proceeding.

Background and Evidence

This tenancy began on March 2, 2010 under a fixed term rental agreement set to end on September 1, 2010. Rent was \$1,000 per month and the landlord holds a security deposit of \$500 paid on March 2, 2010.

During the hearing, the tenant gave evidence that when the landlord's agent did not appear for the scheduled move-out condition inspection, the following day he sent his key and forwarding address to the agent by registered mail to the address for service provided for the landlord on the rental agreement.

The landlord who currently lives in Toronto, stated that she had intended to file a cross application on November 21, 2010. While she submitted a copy of her completed application form with her evidence, the application was not filed and there is no record, and she has no recollection, of a filing fee having been paid or Notice of Hearing being issued. The landlord stated her some uncertainty resulted from much of the tenancy having been managed by her agent in Vancouver.

The landlord concurred that the security deposit had not been returned

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 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 on the deposit or return it within 15 days of the end of the tenancy.

Therefore, I find that the tenant is entitled to return of the security deposit in double. As the tenants' application has succeeded, I further find that he is entitled to recover the filing fee for this proceeding from the landlords.

Thus, I find that the landlords owe to the tenant an amount calculated as follows.

Security deposit	\$500.00
To double the deposit	500.00
Filing fee	<u>50.00</u>
TOTAL	\$1,050.00

No interest was prescribed by Regulation for the material period.

Conclusion

The tenants' copy of this decision is accompanied by a Monetary Order for **\$1,050.00**, enforceable through the Provincial Court of British Columbia, for service on the landlord and he agent.

The landlord remains at liberty to make application for claimed damages.

January 28, 2011