



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD

Introduction

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

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on October 4, 2010. Based on the evidence of the Tenant, 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 her security deposit?

Background and Evidence

This tenancy started on May 1, 2010, as a fixed term tenancy with an expiry date of September 1, 2010. The Tenant said the tenancy ended September 1, 2010. Rent was \$600.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$350.00 on April 22, 2010.

The Tenant said that she moved out of the rental unit on September 1, 2010 and gave the Landlord a forwarding address in writing dated September 6, 2010. She said she sent the forwarding address by registered mail and she confirmed it was delivered on September 9, 2010 to the Landlord. The Tenant said there was no move in or move out condition inspection reports completed.

The Tenant continued to say that there was a dispute between the Landlord and herself about payment of the utilities, which she believes is the reason the Landlord has not returned her security deposit. The Tenant said the utilities dispute was not resolved and the Landlord did not apply to the Residential Tenancy Branch for dispute resolution.

The Landlord has not made an application to the Residential Tenancy Branch and he did not attend the hearing on February 1, 2010.

The Tenants said she wants to apply for double the return of a security deposit as the Landlord has not complied with the *Residential Tenancy Act*.

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 accept the Tenant's testimony that she did give the Landlord a forwarding address in writing on September 9, 2010. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or after receiving a forwarding address in writing from the Tenant, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and grant an order for double the security deposit of \$350.00 in the amount of \$700.00.

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 \$700.00 to the Tenant. The order must be served on the Respondent and is enforceable through the British Columbia Provincial Court (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*.

Residential Tenancy Branch