



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 25, 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 absences.

The Tenant said the Landlord did not accept the registered mail package with the Application and Notice of Hearing (the “hearing package”) because the post office returned it to the sender (the Tenant). The Tenant provided a tracking number and post office receipt and she said the address for the Landlord was correct as she has been to the Landlord’s house and she has the Landlord’s present address in writing.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started on December 15, 2009 as a month to month tenancy. The tenancy ended October 5, 2010. Rent was \$500.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$300.00 on December 15, 2009.

The Tenant said that she moved out of the rental unit on October 5, 2010 and gave the Landlord a forwarding address in writing on October 15, 2010. The Tenant said she was not sure if a move in condition inspection was done, but she said no move out condition inspection report was completed. The Tenant continued to say that she cleaned the unit before leaving and she asked the Landlord for her security deposit back.

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 gave the Landlord a forwarding address in writing on October 15, 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 by October 30, 2010. Consequently I find for the Tenant and grant an order for double the security deposit of \$300.00 in the amount of $\$300.00 \times 2 = \600.00 .

As the Tenant was successful in this matter; pursuant to section 67 a monetary order for \$600.00 has been issued to the Tenant. This Monetary order represents double the security deposit in the amount of \$600.00.

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 \$600.00 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*.

Residential Tenancy Branch