



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened by way of conference call to deal with the tenant's application for return of all or part of a pet damage deposit or security deposit. The tenant attended the conference call hearing, provided affirmed testimony and provided an evidence package in advance of the hearing. However, despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents on October 16, 2010, the landlord did not attend. The tenant provided proof of sending the documents to the landlord by registered mail, which were returned to the tenant marked "Unclaimed." Section 90 of the Residential Tenancy Act states that documents served by registered mail are deemed to be served 5 days after mailing. I find that the landlord was deemed to be served on October 21, 2010.

All information and testimony provided by the tenant has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Is the tenant entitled to return of all or part of a pet damage deposit or security deposit?

Background and Evidence

This fixed-term tenancy began on September 1, 2008 and expired on August 31, 2009, and then reverted to a month-to-month tenancy until August 31, 2010. The tenant testified that he paid rent for the month of August, 2010 but physically moved from the rental unit on August 22, 2010.

Rent in the amount of \$1,750.00 per month was payable in advance on the 1st day of each month, and there are no rental arrears. On August 23, 2008 the landlord collected a security deposit from the tenant in the amount of \$875.00.

The tenant testified that he gave the landlord the keys at the end of the tenancy and asked when he would be receiving back his security deposit, to which the landlord responded she would get back to him in a couple of weeks.

The tenant emailed the landlord on August 29, 2010 again requesting the security deposit, and again on September 20, 2010 with his forwarding address in writing, and received a reply that day from the landlord stating that there were damages and she would not be returning the security deposit.

The tenant further testified that none of the security deposit has been returned to him and he has not been served with a Landlord's Application for Dispute Resolution claiming against the security deposit.

Analysis

Section 38 of the *Residential Tenancy Act* requires that within 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit. I find that the tenancy ended on August 31, 2010, and that the tenant provided his forwarding address in writing on September 20, 2010. I further find that the landlord has failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing or the end of the tenancy.

I find that the tenant has established a claim for the security deposit of \$875.00, accrued interest of \$4.70, and double the base amount of the security deposit in the amount of \$1,750.00, for a total of \$1,754.70. The tenant is also entitled to recover the \$50.00 filing fee for this application.

Conclusion

For the reasons set out above, I grant the tenant an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1,804.70. This order may be filed in the Provincial Court of British Columbia, Small Claims division and enforced 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: February 15, 2011.

Residential Tenancy Branch