

DECISION

Dispute Codes:

MNSD; FF

Introduction

This is the Tenant's application for a monetary order for double the security deposit paid to the Landlord; and to recover the cost of the filing fee from the Landlord.

The Tenant gave affirmed evidence at the Hearing.

The Tenant testified that he personally served the Landlord with the Notice of Hearing documents by handing the documents to an agent of the Landlord at the Landlord's place of business on October 22, 2010.

Based on the affirmed testimony of the Tenant, I am satisfied that the Landlord was served with the Notice of Hearing documents. Despite being served, the Landlord did not sign into the teleconference and the Hearing continued in its absence.

Issues to be Decided

- Is the Tenant entitled to a monetary order for double the security deposit?

Background and Evidence

The Tenant gave the following testimony:

- The tenancy started on October 1, 2009. The Tenant paid the Landlord a security deposit in the amount of \$500.00 at the beginning of the tenancy. The Tenant provided a copy of the tenancy agreement in evidence.

- The tenancy ended on September 30, 2010. The Tenant and the Landlord's agent met at the rental unit to perform a move-out inspection. The Tenant agreed that the Landlord could retain \$85.00 of the security deposit for minor damages/repairs. The Tenant provided the Landlord with written notification of his forwarding address on the bottom of the Condition Inspection Report, on September 30, 2010. The Tenant provided a copy of the Condition Inspection Report in evidence.
- The Landlord has not returned the balance of the security deposit in the amount of \$415.00 to the Tenant. There are no previous Orders from the Director allowing the Landlord to retain any of the security deposit.

Analysis

A security deposit is held in a form of trust by the Landlord for the Tenant, to be applied in accordance with the provisions of the Act.

Section 38(1) of the Act provides that (unless a landlord has the tenant's consent to retain a portion or all of the security deposit) after receipt of a tenant's forwarding address in writing, a landlord has 15 days to either:

1. repay the security deposit in full, together with any accrued interest; or
2. make an application for dispute resolution claiming against the security deposit.

I accept the Tenant's testimony that he provided the Landlord with written notification of his forwarding address on September 30, 2010, in accordance with Section 88(b) of the Act. No interest has accrued on the security deposit.

Section 38(6) of the Act provides that if a landlord does not comply with Section 38(1) of the Act, the landlord **must** pay the tenant double the amount of the security deposit. Therefore, I find that the Tenant has established a monetary claim, calculated as follows:

Double the security deposit	\$1,000.00
Less amount the Tenant agreed the Landlord could keep	<u>-\$85.00</u>
TOTAL	\$915.00

The Tenant has been successful in his application and is entitled to recover the cost of the \$50.00 filing fee from the Landlord.

Conclusion

I hereby grant the Tenant a Monetary Order against the Landlord in the amount of **\$965.00**. This Order must be served on the Landlord and may be filed in the Provincial Court of British Columbia (Small Claims) 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 21, 2011.
