



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, MNDC, FF, O

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit, monetary compensation for damage or loss under the Act, regulations or tenancy agreement.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on November 15, 2011. 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 with both the Landlord and the Tenant in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?
2. Is the Tenant entitled to monetary compensation and if so how much?

Background and Evidence

This tenancy started on June 1, 2010 as a month to month tenancy. The tenancy ended June 10, 2010. Rent was \$435.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$217.50 on May 27, 2010.

The Tenant said that he moved out of the rental unit on June 10, 2010 and gave the Landlord a forwarding address in writing on July 8, 2010. The Tenant said he did not think a move in condition inspection was done and he said no move out condition inspection report was completed.

The Tenant said he left the rental unit after telling the Landlord on the morning of June 9, 2010 that the other tenant in the rental units made it impossible for him to live there. He said he did not feel safe at the rental unit and he included a Police report regarding the situation. The Tenant continued to say that the Landlord was abusive to him and told him to get out of his house. The Tenant said he moved out of the rental unit on June 10, 2010.

The Tenant continued to say that he is applying for double his security deposit (2 X 217.50 = \$435.00) and the rent he paid for June, 2010 of \$435.00 as he did not live in the rental unit past June 10, 2010.

The Landlord said he did not harass the Tenant. He confirmed he received the Tenant's forwarding address on July 8, 2010 and that he has not returned the Tenant's security deposit or apply for dispute resolution as of the hearing date March 14, 2011. The Landlord continued to say that he has no problem returning the security deposit now.

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 he gave the Landlord a forwarding address in writing on July 8, 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 July 23, 2010.

Consequently I find for the Tenant and grant an order for double the security deposit of \$217.50 in the amount of $\$217.50 \times 2 = \435.00 .

The Tenant said that he gave the Landlord verbal notice on June 9, 2010 that he was moving out on June 10, 2010 and that he moved out on June 10, 2010. The Landlord said he accepted the verbal notice, but he said that it was not the proper 1 month notice required by the Act. As the Tenant had the use of the rental unit for June, 2010 and he said it was his choice to move out of the rental unit, I find that the Tenant ended the tenancy and he has no claim to recover the rent paid for June, 2010. The Tenant did not give the Landlord proper notice to end the tenancy; therefore the Tenant's claim for the rent for June, 2010 of \$435.00 is dismissed.

As the Tenant was partially successful in this matter I award the recovery of the filing fee of \$50.00 for this proceeding from the Landlord to the Tenant and; pursuant to section 67 a monetary order for \$485.00 has been issued to the Tenant.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38, 67 and 72 of the Act, I grant a Monetary Order for \$485.00 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