

DECISION

Dispute Codes: MNSD and FF

Introduction

Application made by the tenant on March 14, 2011 seeking s return of his security deposit on the grounds that the tenancy never began and the landlord did not return the deposit or make application to claim upon it. The tenant also seeks to recover the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on March 14, 2011, the landlord did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This application requires a decision on whether the tenant is entitled to a Monetary Order for the security deposit and whether the amount must be doubled under section 38(6) of the Act.

Background and Evidence

During the hearing, the tenant gave evidence that he had paid the landlord a security deposit of \$300 on August 15, 2010 (receipt provided) with the intention of moving into the rental unit on September 1, 2010.

As matters turned out, the tenant did not proceed with the tenancy, and advised the landlord on August 22, 2010 that he would not be moving in. The tenant stated that the unit continued to be advertised throughout, so he concluded that the landlord too had considered that the tenancy might not begin. The tenant stated that he believed other persons had taken the unit.

The tenant stated that he had tried a number of times to have the security deposit returned including two registered letters to the landlord requesting its return and providing a forwarding address.

Analysis

Section 38(1) of the *Act* provides that, within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address, the landlord must return the security deposit or make application for dispute resolution to claim upon it.

Section 38(6) of the *Act* states that a landlord who does not comply with section 38(1) "must pay the tenant double the amount of the security deposit..."

In the present matter, having no evidence to the contrary, I find that the landlord did not return the deposit or make application to claim against it within 15 days of receiving the tenant's forwarding address.

Therefore, I find that the landlord must return the \$300 deposit in double as required under section 38(6) of the *Act*, and, as the application has succeeded on its merits, I find the tenant is entitled to recover the \$50 filing for this proceeding from the landlord.

Conclusion

The tenants' copy of this decision is accompanied by a Monetary Order for \$650, enforceable through the Provincial Court of British Columbia, for service on the landlord.

June 27, 2011