

DECISION

Dispute Codes: MNSD and FF

Introduction

By application of March 17, 2011, the tenants seek return of their security deposit in double on the grounds that the landlords did not return it or make application to make claim upon it within 15 days of the latter of the end of the tenancy or receipt of the tenants' forwarding address. The tenants also seek to recover the filing fee for this proceeding from the landlords.

Issues to be Decided

This application requires a decision on whether the tenants are 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

This tenancy began on September 1, 2009 and ended on January 31, 2011. Rent was \$1,000 per month and the landlords hold a security deposit of \$500 paid on August 12, 2009.

During the hearing, the tenants gave evidence that they had provided the landlords with their forwarding address during the move-out inspection on January 31, 2011 and the landlords stated that they had sent the tenants a list of items they felt warranted claims against the deposit on February 15, 2011.

The landlords concur that they did not make application for dispute resolution to make their claims as they believed the tenants were in agreement that deductions were to be made from the deposit.

By way of verification, the landlords pointed to box 2 on the signature page of the move out condition inspection report that holds the notation, "I (name of tenant) agree to the following deductions from my security and/or pet damage deposit with "TBA – at a later date" inserted into the space provided to enter a dollar amount.

While box 2 provides a space for the tenant's signature, that space has not been signed while the female tenant did sign the box below which simply verifies her participation in the inspection.

The tenants stated that the document had been amended after signing and that had at no time had they agreed to any deductions from the deposit.

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, I find that the landlords did not return the deposit or make application to claim against it within 15 days of the end of the tenancy or receiving the tenant's forwarding address.

Therefore, I find that the landlord must return the \$500 deposit in double as required under section 38(6) of the *Act*, with no interest due for the material period. As the application has succeeded on its merits, I further find the tenants are entitled to recover the \$50 filing for this proceeding from the landlords.

While the landlords submitted a package of evidence in support of claims for damages, they could not be considered under the tenants' application for return of the security deposit. The landlords remain at liberty to make an application for damages under section 67 of the *Act*, but they are out of time to make a claim on the security deposit which is disposed of in the present decision at any rate.

Conclusion

The tenants' copy of this decision is accompanied by a Monetary Order for \$1,050.00 comprised of the \$500 security deposit doubled plus the \$50 filing fee for this proceeding. If necessary, the Order may be filed with the Provincial Court of British Columbia and enforced as an order of the court.

June 30, 2011