



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the tenant for return of double the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

This tenancy began June 15, 2006 with monthly rent of \$1600.00 and the tenant paid a security deposit of \$800.00.

The tenant testified that she vacated that rental unit on June 1, 2011 and that as she could not be present for the move-out inspection her mother attended in her place. The tenant stated that she had given her mother a document with her forwarding address on it to provide to the landlord at the time of the inspection and the landlords acknowledged that they received the tenants forwarding address in writing on June 1, 2011.

The tenant stated that she had applied for return of double the security deposit as the landlords had neither returned her security deposit to her nor filed to claim against the security deposit.

The landlords testified that they had not returned the security deposit to the tenant due to the amount of damage in the rental unit and as they had been trying to reach an agreement with the tenant on paying for the damages.

The landlords stated that they had been under the impression that they could bring their evidence of damages forward at today's hearing and have the matter heard alongside the tenant's application.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenant has met the burden of proving that they have grounds for entitlement to a monetary order for return of double the security deposit.

Section 38(1) of the *Residential Tenancy Act* provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the landlord received the tenant's forwarding address in writing. The *Act* does not allow for additional time should the parties be attempting to reach an agreement regarding return of the security deposit. The *Act* allows for cross applications to be filed however a party may not make a monetary claim on the other party's application.

Section 38(6) of the *Residential Tenancy Act* provides in part that if a landlord does not comply with his statutory obligation to return the security deposit within 15 days, the landlord must pay the tenant double the amount of the deposit. Accordingly I find that the tenant is entitled to a monetary order for \$1600.00.

As the tenant has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the tenant has established a monetary claim for **\$1600.00**. The tenant is also entitled to recovery of the \$50.00 filing fee. I grant the tenant a monetary order under section 67 of the *Act* for **\$1650.00**.

If the amount is not paid by the landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: October 25, 2011.

Residential Tenancy Branch