



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenant for the return of double the security deposit and to recover the filing fee.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on July 21, 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 in the Landlord’s absences.

The Tenant said the Landlord did not accept the registered mail package with the Application and Notice of Hearing (the “hearing package”), because the post office returned it to the sender (the Tenant). The Tenant provided a tracking number and post office receipt and she said the address for the Landlord was correct.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of double the security deposit?

Background and Evidence

This tenancy started on February 1, 2010 as a fixed term tenancy with an expiry date of January 31, 2011, then the tenancy renewed on a month to month basis. Rent was \$1,175.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$587.50 on January 7, 2010.

The Tenant said that she moved out of the rental unit at the end of February, 2011, 2010 and gave the Landlord a forwarding address in writing by registered mail on April 13, 2011. The Tenant said she was not sure if a move in condition inspection was done, but she said no move out condition inspection report was completed. The Tenant continued to say that she cleaned the unit before leaving and she asked the Landlord for her security deposit back.

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 she gave the Landlord a forwarding address in writing on April 13, 2011. 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 April 28, 2011, 15 days after receiving the Tenant's forwarding address in writing. Consequently I find for the Tenant and grant an order for double the security deposit in the amount of $\$587.50 \times 2 = \$1,175.00$.

As the Tenant was successful in this matter, I further order the Tenant to recover the filing fee of \$50.00 from the Landlord; pursuant to section 67 a monetary order for \$1,225.00 has been issued to the Tenant. This Monetary order represents double the security deposit in the amount of \$1,175.00 and the filing fee of \$50.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$1,225.00 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