



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an application by the tenants for return of double the security deposit. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Are the tenants entitled to any of the above under the Act.

Background and Evidence

This tenancy began October 1, 2009 with monthly rent of \$1100.00 and the tenants paid a security deposit of \$550.00.

The tenants testified that the tenancy ended June 30, 2011 and that they provided the landlord their forwarding address in writing on September 20, 2011 by registered mail. The tenants stated that to date the landlord has not returned the security deposit to them. The tenants in this application are now seeking return of double the security deposit as the landlord has not complied with the Act.

The landlord testified that the tenants left the rental unit in un-rentable condition and that he had to have 4 loads of trash and discarded items taken to the dump. The landlord stated that because of the condition of the rental unit he could not move new tenants in until September 2011.

The landlord stated that he had called the tenants a number of times and had been attempting to reach a settlement with the tenants but that the tenants had been unresponsive. The landlord in this hearing offered to return \$300.00 to the tenants in full settlement of any future claim by the landlord however the tenants refused. The landlord explained that he would then move forward with his claim which would be well in excess of \$1000.00.

The tenant did question the ability of a landlord to claim for damages if no move-in or move-out inspections were completed and it was clarified for both parties that while the

landlord may have lost the ability to claim against the security deposit, the landlord was still at liberty to make an application for a monetary order for compensation due to damage or loss.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenants have 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.

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 tenants are entitled to a monetary order for \$1100.00.

Conclusion

I find that the tenants have established a monetary claim for **\$1100.00** in return of double the security deposit and I grant the tenants a monetary order under section 67 of the *Act* for this amount.

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: November 29, 2011.

Residential Tenancy Branch