

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery August 12, 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.

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 August 15, 2010 as a month to month tenancy. The tenancy ended July 16, 2011. Rent was \$950.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$475.00 in August, 2010.

The Tenant said that she moved out of the rental unit on July 16, 2011 and she gave the Landlord a forwarding address in writing on July 16, 2011 when she moved out, as well as with her application for dispute resolution dated August 10, 2011. The Tenant said a move in condition inspection report was completed, but she said no move out condition inspection report was completed. The Tenant said the Landlord refused to do a move out inspection and the Landlord told her she never lived there so he was not returning her security deposit. The Tenant continued to say that the Landlord would not let her complete the cleaning of the rental unit so she left and she has not she spoken with the Landlord since July 16, 2011.

The Tenant said she is applying for double her security deposit in the amount of \$950.00 as indicated in the Act.

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 July 16, 2011 and August 12, 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 August 31, 2011. Consequently I find for the Tenant and grant an order for double the security deposit of \$475.00 in the amount of $\$475.00 \times 2 = \950.00 .

As the Tenant was successful in this matter; pursuant to section 67 a monetary order for \$950.00 has been issued to the Tenant. This Monetary Order represents double the security deposit.

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 \$950.00 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*.

Dated: November 14, 2011.

Residential Tenancy Branch