



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 for Dispute Resolution by the tenants for a Monetary Order for the return of their security, doubled, and to recover the cost of the filing fee from the Landlord for this application.

The landlords did not appear at the hearing, although they submitted evidence for the hearing. The tenants testified that they did not receive a copy of the evidence.

The tenants testified and supplied evidence that they served the Application and Hearing Package upon the landlords individually via registered mail on October 21, 2011, to the address of the landlords. The tenants submitted proof that the mail had been delivered.

Having been satisfied the tenants served the landlords in a manner that complies with section 89 of the Residential Tenancy Act (the "Act"), I proceeded to hear from the tenants without the landlords present.

The tenants appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in documentary form and make submissions to me.

Issue(s) to be Decided

Are the Tenants entitled to a Monetary Order under sections 38, 67, and 72 of the *Residential Tenancy Act*?

Background and Evidence

The testimony of the tenants is that this month to month tenancy began on November 15, 2010, ended on July 15, 2011, and a security deposit of \$500.00 was paid to the landlords on October 23, 2010.

The tenants supplied evidence and gave affirmed testimony that the landlords were provided the tenants' written forwarding address, on July 15, 2011, and July 18, 2011.

The tenants testified that despite numerous requests for a return of their security deposit, the landlords have failed reimburse this amount.

The tenants testified that there was no move-in or move-out condition inspection report and that they have not signed over any portion of their security deposit to the landlords.

There is no evidence before me that the landlords have filed for Dispute Resolution.

Analysis

Based on the testimony, evidence and a balance of probabilities, I find as follows:

In order to justify payment of loss under section 67 of the *Act*, the applicants/tenants are required to prove that the other party did not comply with the *Act* and that this non-compliance resulted in losses to the applicants pursuant to section 7.

I accept the uncontradicted evidence and testimony of the tenants that the tenancy ended on July 15, 2011, the landlords were provided the tenants' written forwarding address on two separate occasions, on July 15, 2011, and July 18, 2011, and have not returned the tenants' security deposit.

Section 38(1) of the *Act* stipulates that if within 15 days after the later of: 1) the date the tenancy ends, and 2) the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit, to the tenant with interest or make application for dispute resolution claiming against the security deposit. In this case the landlords were required to return the tenants' security deposit or file for dispute resolution no later than July 30, 2011.

Based on the above, I find that the landlords failed to comply with Section 38(1) of the *Act* and therefore the tenants are entitled to a return of their security deposit, doubled, pursuant to Section 38(6) of the *Act*.

I find the tenants' application had merit and I award them recovery of their filing fee, in the amount of \$50.00.

I find the tenants have established a **monetary claim** in the amount of **\$1,050.00**, comprised of their security deposit of \$500.00, doubled, and \$50.00 for the filing fee.

Conclusion

I grant the tenants' application and have issued a monetary Order for the sum of **\$1,050.00**.

I am enclosing a monetary order for \$1,050.00 with the tenants' Decision. This monetary order is a **legally binding, final order**, and it may be filed in the Provincial Court of British Columbia (Small Claims) should the landlords fail to comply with this monetary order.

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 15, 2011.

Residential Tenancy Branch