



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have made application for a monetary Order for return of the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were personally served to the landlord's office on September 26, 2011, by handing the documents to the landlord's receptionist

On October 31, 2011, the tenant personally served his evidence package to the landlord's office, by handing the documents to the receptionist.

These documents are deemed to have been served in accordance with section 89 of the Act; however the landlord did not appear at the hearing.

Issue(s) to be Decided

Is the tenant entitled to return of double the deposit paid?

Is the tenant entitled to filing fee costs?

Background and Evidence

The tenancy commenced on September 26, 2008; a deposit in the sum of \$300.00 was paid. The tenancy ended on August 31, 2011, when the tenant's employment with the landlord ended.

No move-in or move-out condition inspection reports were completed. The tenants did not sign, agreeing to any deductions from their deposit at the end of the tenancy.

Email was a common form of communication between the parties and on August 30, 2011, the tenants sent the landlord their written forwarding address. A copy of the email was supplied as evidence. On September 19, 2011, the landlord issued a cheque in the sum of \$101.50 and sent it to the tenant's forwarding address.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

The amount of deposit owed to a tenant is also contingent on any dispute related to damages and the completion of move-in and move-out condition inspections. In this case there is no dispute related to damages and the tenants did not sign at the end of the tenancy agreeing to deductions from the deposit.

I have no evidence before me that a move-in condition inspection or move-out condition inspection was completed as required by the Act. Further, I have no evidence that that landlord has repaid the deposit as required by the Act. Therefore, I find that the tenants are entitled to return of double the \$300.00 deposit paid to the landlord, plus interest in the sum of \$1.19; less the \$101.50 cheque cashed by the tenants.

I find that the tenant's application has merit, and I find that the tenants are entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Conclusion

I find that the tenants have established a monetary claim, in the amount of \$651.19, which is comprised of double the deposit plus interest and \$50.00 in compensation for the filing fee paid by the tenant for this Application for Dispute Resolution; less \$101.50 previously received.

Based on these determinations I grant the tenants a monetary Order for \$549.69. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court 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: December 29, 2011.

Residential Tenancy Branch