



Dispute Resolution Services

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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 a security deposit and to recover the filing fee for this proceeding.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on November 15, 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 absence.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started in April, 2008 as a month to month tenancy. The tenancy ended October 1, 2011. Rent was \$700.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$350.00 in April, 2008.

The Tenant said that she moved out of the rental unit on October 1, 2011 and gave the Landlord a forwarding address in writing on October 18, 2011. The Tenant said there was no move in or move out condition inspection reports completed. The Tenant continued to say that she cleaned the unit before leaving and she asked the Landlord for her deposit back. She said the Landlord wrote her a letter that indicated the Landlord did not like the condition of the house after the Tenant had left and the Tenant believed the Landlord was not going to return her security deposit. The Tenant continued to say that she has tried many times to contact the Landlord by phone and he has not returned her calls. The Tenant said she has not received her security deposit as of yet and so the Tenant said she is applying for double her security deposit in the amount of \$700.00 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 find from that the Tenant did give the Landlord a forwarding address in writing on October 18, 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. Consequently I find for the Tenant and grant an order for double the security deposit of \$350.00 plus accrued interest of \$6.63 from April 30, 2008 to January 31, 2012 in the amount of $\$350.00 \times 2 = \700.00 plus $\$6.63 = \706.63 .



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As the Tenant was successful in this matter I further order the Tenant to recover the filing fee of \$50.00 for this proceeding from the Landlord. Pursuant to sections 38 & 67 a monetary order for \$756.63 will be issued to the Tenant. This Monetary order represents double the security deposit, plus accrued interest in the amount of \$706.63 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 \$ 756.63 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*.

Dispute Resolution Officer