



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNR, MND, MNDC, FF

Introduction

This was a cross-application hearing.

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application requesting return of double the security deposit, damage or loss under the Act and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The landlord applied requesting compensation for damage to the rental unit, unpaid rent, compensation for damage or loss under the Act; to retain the deposit and filing fee costs.

The tenant confirmed receipt of the landlord's application.

The landlord named 2 tenants as respondents; the tenant applied under her name only.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were personally served to the landlord's agent, at her residence on December 21, 2011, at approximately 3 p.m. The agent had been the landlord's representative for the final month of the tenancy.

The tenant served photographs to the landlord, sent via registered mail, on February 20, 2012; that evidence was not referenced during the hearing.

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

Preliminary Matter

As the landlord failed to attend the hearing in support of their claim, I dismissed their application.

Issue(s) to be Decided

Is the tenant entitled to return of double the \$437.50 deposit paid?

Is the tenant entitled to compensation in the sum of \$90.00 for a telecommunication device?

Is the tenant entitled to filing fee costs?

Background and Evidence

The tenancy commenced on July 1, 2010; rent was \$875.00 per month; a deposit in the sum of \$437.50 was paid. Rent was due on the first day of each month.

The tenancy ended on November 30, 2011; a condition inspection report was completed and signed by the tenant; a copy of which was included in the landlord's evidence. A copy of the report was given to the tenant on November 30, 2011; she wrote her forwarding address on the report.

The landlord applied claiming against the deposit on December 19, 2011, when payment was received by the Residential Tenancy Branch.

The tenant has not received her deposit.

The tenant left a telecommunication device on the wall of the unit and has claimed \$90.00 as the value of the unit.

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 was a dispute but the landlord did not attend the hearing in support of their application, made 19 days after the tenancy ended and the tenant's forwarding address was provided.

I have no evidence before me that that landlord has repaid the deposit as requested in writing by the tenant. Therefore, I find that the tenant is entitled to return of double the \$437.50 deposit paid to the landlord.

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

In the absence of any verification of the loss of the telecommunication device as a result of a breach of the Act; that portion of the claim is dismissed.

Conclusion

I find that the tenant has established a monetary claim, in the amount of \$925.00, which is comprised of double the deposit in the sum of \$875.00 and \$50.00 in compensation for the filing fee paid by the tenant for this Application for Dispute Resolution.

Based on these determinations I grant the tenant a monetary Order for \$925.00. 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.

The claim for damage or loss in the sum of \$90.00 is dismissed.

The landlord's claim is dismissed.

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: February 28, 2012.

Residential Tenancy Branch