



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened in response to an application filed by the landlord seeking to retain the security deposit and recover the filing fee paid for this application.

Both parties appeared at the hearing of this matter and gave evidence under oath.

Issue(s) to be Decided

Has the landlord met the burden of proving he should be able to retain the security deposit?

Background and Evidence

The landlord testified that this tenancy began in September 2009 and ended on September 30, 2011. The tenants paid a security deposit of \$750.00 on or about September 1, 2009. The landlord acknowledges that he received the tenant's forwarding address by e-mail about 2 days after the tenancy ended. The landlord submitted a decision rendered January 3, 2012 indicating that a hearing was held in this matter on that date but while the tenant/respondent did appear the landlord/applicant did not appear. The matter was adjourned with leave to reapply and the landlord made a new application on February 1, 2012 which is the subject of this hearing. The landlord says the tenant took furniture without notifying him and he wants to keep the \$750.00 to compensate for the missing furniture. The landlord supplied some photographs showing an equipped suite with a note stating "most stocks original from landlord". Condition inspection reports were not submitted.

The tenant says condition inspection reports were not submitted because they were not prepared. The tenant objects to the landlord retaining the deposit. The tenant says while the suite was partially furnished when they rented it, the tenant had to add additional furnishings to bring the suite up to an acceptable standard and she took most of those furnishings when she moved. The tenant supplied a detailed list of items they

moved into the suite. The tenant says as well that there were some furnishings they left behind and they are now wishing to claim \$710.00 in addition to recovery of the \$750.00 security deposit.

Analysis

The onus or burden of proof is on the party making the claim. When one party provides testimony of the events in one way and the other party provides an equally probable but different explanation of the events, the party making the claim has not met the burden on a balance of probabilities and the claim fails. I find that the landlord has failed in his burden to prove his claim and it is therefore dismissed. I direct that the landlord return the deposit of \$750.00 to the tenant forthwith (no interest accrued). I will provide an Order to the tenant in this regard.

With respect to the tenant's claim for an addition \$710.00 the tenant has not made a formal application to recover that sum. Therefore no such application is before me.

Conclusion

The tenant is provided with an Order as described above. The landlord must be served with a copy of this Order as soon as possible. This is a final and binding Order as any Order of the Provincial Court of British Columbia.

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: March 29, 2012.

Residential Tenancy Branch