



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested return of double his deposit and compensation for damage or loss under the Act.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were personally delivered to the landlord's agent, E.N., at the front desk of the rental unit property, at 8:35 p.m. on January 7, 2012.

As the tenant has given the agent of the property owner the Notice of hearing documents, I find that the landlord was sufficiently served with Notice of this hearing.

Preliminary Matters

The tenant's application indicated a total claim in the sum of \$600.00; the details of the claim section of the application indicated a claim for return of the deposit only.

On January 30, 2012, the tenant submitted 5 pages of evidence to the Residential Tenancy Branch (RTB), which set out the details of his claim for return of the deposit and damage or loss under the Act.

On March 8, 2012, the RTB received a submission from the landlord, who declared that they had not received the Notice of hearing until they were given the tenant's evidence package on March 5, 2012. The tenant testified that the evidence was personally served to the agent of the landlord, E.H., at the hotel front desk, on March 5, 2012.

The landlord's late evidence submission also indicated that perhaps the landlord would be able to leave a scheduled meeting for a few minutes to attend the hearing; this did not occur. The landlord's submission also indicated that they were unable to attend the hearing; due to short notice. However, I have found that an agent of the landlord was served with notice of this hearing on January 7, 2012. It appears that an agent of the landlord has failed to forward the notice of hearing package to other landlord representatives; however, this was due to no fault of the tenant.

The landlord indicated that no one by the name of A.N. is at the landlord's property. Therefore, I have amended the application to include the respondent as shown on the tenant's application; as the hotel name, absent A.N. and, as the hotel name used by the landlord.

The late evidence submission made by the tenant was set aside. Therefore, in the absence of any details of the claim made, outside of the request for return of the deposit; the balance of the application is dismissed with leave to reapply.

Issue(s) to be Decided

Is the tenant entitled to return of the deposit paid?

Background and Evidence

The tenancy commenced in June 2010, at which time a deposit in the sum of \$185.00 was paid. Condition inspection reports were not completed.

The tenant vacated the unit on February 9, 2011, and applied January 4, 2012, requesting return of his deposit.

After the tenancy ended the tenant spoke with an individual at the hotel, who the tenant had seen working there over the course of his tenancy. This female told the tenant that as he had cost them money, they would not return his deposit. The tenant did not supply his forwarding address at this time, as he believed the landlord would not return the deposit.

The tenant submitted that upon service of the application on January 7, 2012, the landlord had been given his forwarding address and that the landlord should have returned the deposit within fifteen days of that date, or, applied claiming against the deposit.

Analysis

I find that no later than January 7, 2012; the landlord had the tenant's address, as part of the application served to the landlord's agent, E.N., who worked at the front desk, on January 7, 2012. If the landlord had a claim against the deposit I would expect the landlord to have made that claim within 15 days of January 7, 2012, as required by section 38(1) of the Act.

As the landlord is holding a deposit and has had the tenants address since January 7, 2012, I Order the landlord, pursuant to section 38(6) of the Act, to return double the deposit in the sum of \$370.00. The landlord had fifteen days from January 7, 2012, to either return the deposit or submit a claim against the deposit; as the landlord did

neither of these, I find that section 38(6) of the Act applies and that return of double the deposit is Ordered.

Conclusion

I find that the tenant has established a monetary claim, in the amount of \$370.00, which is comprised of double the deposit held in trust by the landlord.

Based on these determinations, pursuant to section 67 of the Act, I grant the tenant a monetary Order for \$370.00. 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 balance of the tenant's claim is dismissed with leave to reapply.

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 13, 2012.

Residential Tenancy Branch