



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 tenant has 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 sent to the landlord via registered mail on February 29, 2012. The tenant provided a tracking number as evidence of service to the address included on the tenancy agreement. Canada Post tracking number was provided as evidence of service.

These documents are deemed to have been served on the 5th day after mailing, in accordance with section 89 of the Act, however the landlord did not appear at the hearing.

Preliminary Matters

The landlord submitted evidence; however, the tenant did not receive any evidence from the landlord. The landlord did not attend 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 November 15, 2008; rent was \$850.00 per month, due on the first day of each month. A deposit in the sum of \$425.00 was paid on November 8, 2008. Move-in and move-out condition inspection reports were not completed.

The tenant vacated the unit on October 31, 2011. On November 7, 2011, the tenant delivered a hand-written note to the landlord in which she requested return of the deposit and provided her address. A copy of the note and a witness statement signed by the tenant's boyfriend were submitted as evidence.

Approximately 1 week ago the landlord delivered a cheque in the sum of \$225.00 through the tenant's mail slot. The tenant was able to cash the cheque.

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.

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 requested in writing by the tenant. Therefore, I find that the tenant is entitled to return of double the \$425.00 deposit paid to the landlord, \$1.48 interest; less the \$225.00 returned to the tenant.

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.

Conclusion

I find that the tenant has established a monetary claim, in the amount of \$901.48, which is comprised of double the \$425.00 deposit, \$1.48 interest; \$50.00 in compensation for the filing fee paid by the tenant for this Application for Dispute Resolution; less \$225.00 paid to the tenant.

Based on these determinations I grant the tenant a monetary Order for \$676.48. 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: March 20, 2012.

Residential Tenancy Branch