



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / double return of a portion of the security deposit / and recovery of the filing fee. The tenant participated in the hearing and gave affirmed testimony.

Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the landlord did not attend. Evidence provided by the tenant includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the package was "successfully delivered."

Issue(s) to be Decided

Whether the tenant is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began in mid-October 2010. Monthly rent of \$775.00 was payable in advance on the first day of each month, and a security deposit of \$350.00 was collected. The tenant testified that a move-in condition inspection report was not completed.

By letter dated September 30, 2011, the tenant gave notice to end the tenancy effective October 31, 2011. The tenant vacated the unit on or about October 22, 2011, having paid rent to the end of October. On that occasion, the tenant provided the landlord with her forwarding address. No move-out condition inspection report was completed.

Later, by letter dated November 5, 2011, the landlord informed the tenant that she had withheld \$100.00 from the security deposit for shampooing the carpets in the unit. Enclosed with the letter was a cheque for the balance of the security deposit in the amount of \$250.00 (\$350.00 - \$100.00). The tenant did not provide the landlord with

written consent to withhold any amount from the security deposit for any purpose. The tenant seeks the double return of the amount withheld from her security deposit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days of the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit and must pay the tenant double the amount of the security deposit.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord neither repaid the full security deposit nor filed an application for dispute resolution within 15 days after the end of this tenancy. Accordingly, I find that the tenant has established entitlement, as per her application, to the double return of the portion of the security deposit not returned. The entitlement I find to be in the amount of \$200.00 (2 x \$100.00).

As the tenant has succeeded with her application, I find that she has also established entitlement to recovery of the \$50.00 filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$250.00** (\$200.00 + \$50.00). This order may be served on the landlord, filed in the 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 12, 2012.

Residential Tenancy Branch