



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 on March 14, 2012, to the landlord via registered mail at the address noted on the Application. A Canada Post tracking number was provided as evidence of service. The tenant testified that the mail was received by the landlord on March 16, 2012.

These documents are deemed to have been served in accordance with section 89 of the Act; however the landlord did not appear at the hearing. The landlord did make a 2 page evidence submission.

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 in October 2011, a deposit in the sum of \$275.00 was paid. The tenant vacated the rental unit on January 31, 2011 and gave the landlord his address on that date.

On February 2, 2012, the tenant sent the landlord a letter via registered mail that included his forwarding address, in an attempt to enforce a previous order.

The landlord's written submission indicated that he did owe the tenant return of the deposit, but did not have the funds to repay the deposit at this time.

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.

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, the landlord has confirmed that he has not repaid the deposit.

I find that no later than February 7, 2012; the landlord is deemed to have received the tenant's written forwarding address. As the landlord failed to return he deposit within fifteen days of February 7, 2012, I find, pursuant to section 38(6) of the Act, that the tenant is entitled to return of double the \$275.00 deposit paid to the landlord.

I find that the tenant's application has merit and 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 \$600.00, which is comprised of double the deposit 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 \$600.00. 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.

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: April 02, 2012.

Residential Tenancy Branch