



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for the return of his security deposit, doubled.

The hearing process was explained to the parties. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for the return of his security deposit, doubled?

Background and Evidence

This tenancy began on January 1, 2008, and ended on November 1, 2011, monthly rent was \$725.00 and the tenant paid a security deposit of \$325.00 on December 14, 2007.

The tenant testified that he gave the landlord his written forwarding address before the tenancy ended, and did not receive his security deposit in a timely manner.

The tenant submitted that he contacted the landlord after his return from being out of the country, as he had not received the funds. The tenant submitted that he again requested his security deposit and gave the landlord his forwarding address again.

The tenant agreed that the landlord informed him that she had sent the security deposit to his address in the foreign country, but that it had been returned to her.

The tenant submitted, however, that he had not seen evidence that the envelope was returned to the landlord.

Additionally, the tenant stated that the landlord eventually sent a cheque in the amount of \$167.00 and that he returned the cheque as he disagreed with the amount and the spelling of his surname.

The landlord stated that she sent a cheque for \$167.00 to the tenant's forwarding address in the other country within 15 days of receiving the forwarding address, but that it was returned. The landlord said she did not learn that the envelope had been returned until she herself had returned to the country several months later.

The landlord submitted that when the tenant contacted her about not receiving the cheque, she sent another cheque, in the amount of \$167.00, but that one was eventually was returned.

The landlord stated that she then sent another cheque out, this time in the amount of \$203.15. The landlord stated that this cheque has not been cashed.

When questioned, the landlord admitted that she wasn't aware that evidence such as the returned envelope should have been submitted; however, when questioned further, the landlord read from the envelope, with details of delivery and return information.

The landlord contended that she made deductions from the tenant's security deposit due to chair damage and cleaning.

Upon query, the landlord acknowledged there is no condition inspection report.

In response, the tenant stated that he has not received the third cheque.

Analysis

Based on the testimony and evidence provided, and on a balance of probabilities, I find as follows:

The *Act* requires a landlord to either return a tenant's security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of receiving the tenant's forwarding address in writing. In the event a landlord fails to comply with the *Act*, then the landlord must pay the tenant double the security deposit.

I accept the evidence of the tenant and the confirmation by the landlord that the landlord received the tenant's forwarding address at the end of the tenancy. I also find that the landlord issued a cheque to the tenant within 15 days of receiving the written forwarding address; however the cheque was in the amount of \$167.00, which was a partial refund of the tenant's security deposit. I accept that the tenant did not authorize a deduction from his security deposit.

I find the landlord did not file an application for dispute resolution making a claim against the tenant's security deposit. In contravention of the *Act* the landlord made a deduction

from the tenant's security deposit without his written consent prior to returning a portion of the security deposit.

I therefore grant the tenant's application for dispute resolution and order that the landlord pay the tenant double his security deposit as I find that the tenant was unable to cash the cheque sent by the landlord due to the misspelling of his surname.

Having granted the tenant's application, I find that the tenant has established a total monetary claim for the sum of **\$655.12**, comprised of double the security deposit of \$325.00 plus \$5.12 interest on the original security deposit.

Conclusion

I grant the tenant's application and have issued a monetary order for the sum of **\$655.12**.

I am enclosing the monetary order for \$655.12 with the tenant's Decision. This order is a **legally binding, final order**, and it may be filed in the Provincial Court of British Columbia (Small Claims) should the landlord fail to comply with this monetary order.

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: May 29, 2012.

Residential Tenancy Branch