



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested a monetary Order for return of double the security deposit.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the landlord on April 23, 2012, via registered mail at the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service. The tenant checked the Canada Post tracking internet site and determined that the mail was accepted on April 30, 2012.

The tenant used the landlord's address that had been provided on the tenancy agreement; a copy of which was supplied as evidence.

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.

Issue(s) to be Decided

Is the tenant entitled to return of double the deposit paid?

Background and Evidence

The tenancy commenced on December 16, 2009; rent was \$1,400.00 per month, due on the first day of each month. A deposit in the sum of \$700.00 was paid at the start of the tenancy.

The tenant gave notice to vacate at the end of May, 2011; the landlord gave her several extra days to vacate. On June 6, 2011, a move-out condition inspection report was completed with the landlord and his agent. At this time the tenant signed the inspection report agreeing to a cleaning cost deduction from the deposit; although no amount was decided at that time. The tenant also wrote her address on the report; she was not provided with a copy of the report.

The landlord wished to make deductions for other items, such as a damaged floor, but the tenant refused to agree and had suggested the landlord submit a claim against the deposit for those items.

On June 17, 2011, the tenant received an email payment from the landlord in the sum of \$380.00. A detailed breakdown of the deduction included \$160.00 for cleaning plus deductions for costs the tenant had not agreed to, such as \$60.00 for hardwood damage, \$60.00 for removal of a car chair and \$40.00 for paint.

The tenant had expected to receive a reduced amount of the deposit for the cleaning, but not for the other costs. In August 2011, the tenant mailed a copy of her forwarding address to the landlord's agent, after obtaining the address by using the telephone number; this mail was returned as unclaimed.

The tenant is requesting return of double the deposit, less the \$380.00 she has received.

A copy of the tenancy agreement; an August 23, 2011, letter to the landlord requesting return of the deposit to the tenant's address and a June 17, 2012 email from the landlord to the tenant that included a list of costs deducted from the deposit were provided as evidence.

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. In this case there is a dispute, as the tenant did not agree to costs other than cleaning. There was no evidence before me that a specific amount for cleaning was indicated on the condition inspection report signed on June 6, 2011 and, in the absence of a copy of the report having been given to the tenant, I find that the tenant and landlord had not agreed to a specific deduction.

The landlord then made deductions from the deposit, not only for cleaning, but other costs that the tenant did not agree to, in writing, at the end of the tenancy.

The landlord returned a portion of the deposit, that included costs not agreed to by the tenant.

Therefore, as the landlord made deductions from the deposit that were not agreed to by the tenant and did not submit an application claiming against the deposit within 15 days of June 6, 2012, I find that the tenant is entitled to return of double the \$700.00 deposit, less \$380.00 previously returned to the tenant.

Conclusion

I find that the tenant has established a monetary claim, in the amount of \$1,400.00, which is comprised of double the deposit, less \$380.00 previously returned to the tenant.

Based on these determinations I grant the tenant a monetary Order for \$1,020.00. 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: June 20 2012.

Residential Tenancy Branch