



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD and FF

Introduction

This hearing was convened on application by the administrator of the estate of the deceased tenant seeking return of the tenant's security deposit and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered on May 3, 2012, the landlords did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issue(s) to be Decided

This matter requires a decision on whether the tenant's estate is entitled to return of his security deposit, whether the amount should be doubled, and whether the estate should recover the filing fee for this proceeding.

Background and Evidence

According to the estate administrator, sister of the deceased tenant, she is not certain of the exact start date of the tenancy but knows that it was for less than one year. She believes that rent was \$400 per month and has confirmed with "social services" that a \$200 security deposit was paid on behalf of the tenant.

During the hearing, the administrator gave evidence that:

The tenant, her brother, died on July 19, 2011. She met with the landlord on July 20, 2012 and requested a copy of the rental agreement which she has not received to this date.

She stated that the landlord had confirmed a new tenant was scheduled to move in on August 1, 2011, that she had sold the furnishings to the new tenant.

The administrator attended at the rental unit on July 28, 2012 at which time the landlord confirmed the rental unit was in better condition than when the tenant moved in and restated his approval for the furnishings to remain for the new tenant. She also asked the male landlord about the security deposit and he advised that his partner was out of town.

On August 23, 2011, the administrator called the landlords, and was advised by the female landlord that the male landlord did not wish to speak with her and that the security deposit did not belong to her brother but to "social services."

The administrator stated that she has confirmed with social services that the security deposit is, in fact, the property of the tenant and that it had never been returned to them.

Analysis

Section 38(1) of the *Act* allows a landlord 15 days from the latter of the end of the tenancy or receipt of the tenant's forwarding address to return security and pet damage deposits or file for dispute resolution to make claim against them unless the tenant has agreed otherwise in writing as per section 38(4).

Section 38(6) of the *Act* states that, if a landlord does not comply with section 38(1) of the *Act*, the landlord must pay the tenant double the amount of the deposit.

I accept the evidence of the administrator that a \$200 security deposit was paid to the landlords at the beginning of the tenancy and that it has not been returned to the tenant's estate despite the telephone calls and two registered letters.

Therefore, find that the tenant's estate is entitled to return of that deposit in double.

I further find, as the application has succeeded on its merits, that the tenant's estate is entitled to recover the \$50 filing fee for this proceeding from the landlord.

Thus, I find that the tenant is entitled to a Monetary Order, calculated as follows:

For return of the security deposit (No interest due)	\$200.00
Filing fee	<u>50.00</u>
TOTAL	\$450.00

Conclusion

The tenant's estate's copy of this Decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$450.00, for service on the landlords.

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 25, 2012.

Residential Tenancy Branch