



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 convened as the result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for a return of his security deposit and to recover the cost of the filing fee for this application.

The landlords did not attend the telephone conference call hearing. The tenant's agent appeared and gave affirmed testimony.

The tenant testified that the landlords were each served with the Application for Dispute Resolution and Notice of Hearing (the "hearing package") by registered mail on May 4, 2012. The tenant supplied evidence of the tracking number of the registered mail and a signature showing proof of delivery.

I find the landlords were served in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the landlords' absence.

The tenant was provided the opportunity to present her oral evidence and review her documentary evidence.

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.

Preliminary Issue-The tenant's agent was allowed to fax proof of a letter containing a forwarding address sent to the landlords and proof of service of the hearing package and the letter containing the tenant's written forwarding address within the same day as the hearing. The documents were received by the close of office hours on the day of the hearing.

Issue(s) to be Decided

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

Background and Evidence

The tenant testified month to month tenancy began in 1992, and ended on May 31, 2011. The tenant supplied evidence that the tenant paid a security deposit of \$750.00 at the start of the tenancy.

The tenant submitted that several requests were made to the landlords to return their security deposit, without success.

Due to the lack of success, the tenant gave evidence that the landlords were again provided the tenant's written forwarding address, via registered mail, on March 9, 2012.

The tenant supplied a copy of the letter and proof of the registered mail and confirmed delivery.

The tenant testified that despite their request, the landlords have not returned any portion of the security deposit.

The tenant also testified that they have not signed over any portion of the security deposit to the landlords.

There is no evidence before me that the landlords have filed for dispute resolution.

Analysis

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

In order to justify payment of loss under section 67 of the *Act*, the applicant/tenant is required to prove that the other party did not comply with the *Act* and that this non-compliance resulted in losses to the applicants pursuant to section 7.

In the absence of the landlords, the tenant's testimony and evidence will be preferred.

I accept the undisputed evidence of the tenant that the tenancy ended on May 31, 2011, the landlords were provided the tenant's written forwarding address via registered mail on March 9, 2012, and have not returned the tenant's security deposit.

Based on the above, I find that the landlords failed to comply with Section 38 of the *Act* and I therefore find the tenant is entitled to a return of his security deposit, doubled, pursuant to Section 38(6) of the *Act*.

I find the tenant's application had merit and I award him recovery of the filing fee, in the amount of \$50.00.

Conclusion

I find the tenant has established a monetary claim in the amount of \$1,758.49, comprised of his security deposit of \$750.00, doubled, interest on his \$750.00 security deposit of \$208.49 and \$50.00 for the filing fee.

I grant the tenant a monetary order for the sum of \$1758.49, pursuant to section 67 of the *Act*.

The monetary order is enclosed with the tenant's Decision. This monetary order is a legally binding, final order, and it may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement should the landlords fail to comply.

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 29, 2012.

Residential Tenancy Branch