



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 the tenant's application of June 21, 2012 seeking return of his security deposit on the grounds that the landlord did not return it or make application to claim on it within the latter of 15 days from the end of the tenancy or receipt of the tenant's forwarding address

Despite having been served with the Notice of Hearing sent by registered mail on June 25, 2012, the landlord did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

This matter requires a decision on whether the tenant is entitled to a Monetary Order for return of the security deposit - retained without consent or an order obtained through dispute resolution - and whether the amount must be doubled.

Background and Evidence

The present rental agreement for this tenancy began on November 1, 2005 when new landlords purchased the rental building. However, the rental agreement notes that a security deposit of \$275, paid on August 15, 1997, was applied to the present agreement. Rent was \$635 when the tenancy ended on March 1, 2012.

During the hearing, the tenant gave evidence that he had provided the landlord with his forwarding address during a walk through at the end of the tenancy and during following conversations. The tenant stated that the landlord assured him toward the end of March 2012 that the security deposit would be returned shortly.

However, the tenant stated that the deposit never was returned and the landlord did not answer his subsequent calls. Therefore, he made the present application after four months of waiting.

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 deposits.

In the present matter, I accept the evidence of the tenant that the deposit was not returned and I have no evidence that the landlord made application to claim against it within 15 days of the end of the tenancy.

Therefore, I find that the tenant is entitled to a Monetary Order for the security deposit plus interest and that the amount of the bare deposit must be doubled in compliance with section 38(6) of the *Act*. As the application has succeeded on its merits, I find that the tenant is entitled to recover the filing fee for this proceeding from the landlord. The monetary award is calculated as follows:

To return security deposit	\$275.00
To double security deposit per section 38(6) of the <i>Act</i>	275.00
Filing fee	<u>50.00</u>
TOTAL	\$635.80

Conclusion

The tenants' copy of this decision is accompanied by a Monetary Order for **\$635.80**, enforceable through the Provincial Court of British Columbia, for service on the landlord.

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: August 29, 2012.

Residential Tenancy Branch