



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and for loss or damage under the Act, regulations or tenancy agreement.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on June 23, 2012. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absence.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of double the security deposit?

Background and Evidence

This tenancy started on January 1, 2011 as a month to month tenancy. The tenancy ended September 1, 2012. Rent was \$1,600.00 per month payable in advance of the 1st day of each month. The Tenants paid a security deposit of \$800.00 on December 22, 2010. This Tenant paid \$400.00 and another tenant paid \$400.00. The second tenant moved out in April 2012 and has already received her security deposit of \$400.00.

The Tenant said that she moved out of the rental unit on September 1, 2012 and gave the Landlord a formal forwarding address in writing on April 12, 2012. The Tenant said there was no move in or move out condition inspection reports completed. The Tenant continued to say that she cleaned the unit before leaving and he asked the Landlord for his deposit back. She said the Landlord said he would send the security deposit of \$400.00 to her, but the Tenant said she has not received anything from the Landlord. The Tenant continued to say that the Landlord is not responding to her calls and she has had no communication with the Landlord, so she felt her only course of action was to make this application to recover her security deposit. The Tenant said she understands the Act says that if a Landlord does not return a security deposit within certain time lines the Tenant is entitled to double the security deposit. In this case it would be 2 X \$400.00 or \$800.00 in total.

Analysis

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and
- (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find from that the Tenant did give the Landlord a forwarding address in writing on April 12, 2012. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and grant an order for double the security deposit of \$400.00 in the amount of \$400.00 X 2 =\$800.00.



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Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 of the Act, I grant a Monetary Order for \$800.00 to the Tenant. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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*.

Dispute Resolution Officer