



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on June 25, 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 with both the Landlord and the Tenant in attendance.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started in April, 2004 as a month to month tenancy. The tenancy ended November 1, 2011. Rent was \$975.00 per month payable in advance of the 1st day of each month. The Tenant and the Landlord agreed that only part of the security deposit in the amount of \$200.00 was paid in April, 2004.

The Tenant said that he moved out of the rental unit on November 1, 2011 and gave the Landlord a forwarding address in writing on January 3, 2012 and on June 25, 2012 with the Hearing Package. The Tenant said there was no move in or move out condition inspection reports completed. The Tenant continued to say that she asked for her security deposit, but has not received it to date.

The Landlord said there was a previous dispute resolution hearing in which the Tenant and he made a settlement agreement that the Tenant would move out and the landlord would forgive unpaid rent. The Landlord continued to say that the previous decision did not deal with the Tenant's security deposit and he did not apply or request to retain the Tenant's security deposit for damages or for unpaid rent. The Landlord said he has not returned the Tenant's security deposit of \$200.00. The Landlord said the Tenant damaged the rental unit and he thought he could keep the security deposit to pay for the damages, but the Landlord said he did not make an application to retain the Tenant's security deposit.

The Landlord said he did receive a forwarding address in writing from the Tenant on June 25, 2012 with the Tenant's Hearing Package and he has not return the deposit nor has he made an application with the *Residential Tenancy Branch* to retain the security deposit for damages to the rental unit.

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 June 25, 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 \$200.00 (2 X \$200.00



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=\$400.00) in the amount of \$400.00 plus accrued interest of \$7.08 from April 1, 2004 to September 4, 2012 in the amount of \$400.00 +\$7.08 =\$407.08.

As the Tenant is successful in this matter a monetary order represents double the security deposit and accrued interest in the amount of \$407.08 has been issued to the Tenant.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 of the Act, I grant a Monetary Order for \$407.08 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