



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of double the security deposit. It is readily apparent from documents provided to the Landlord with the Application for Dispute Resolution that the Tenant is seeking compensation for property left at the rental unit, and the Application for Dispute Resolution has been amended to include a claim for a monetary Order for money owed or compensation for damage or loss.

The Tenant stated that copies of the Application for Dispute Resolution, the Notice of Hearing, and several documents the Tenant wishes to rely upon as evidence were sent to the Landlord, via registered mail, at the service address noted on the Application, on August 02, 2012. The Tenant cited a Canada Post tracking number that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Landlord did not appear at the hearing.

The Tenant stated that copies of the Application for Dispute Resolution, the Notice of Hearing, and several documents the Tenant wishes to rely upon as evidence were sent to the Agent for the Landlord, via registered mail, at the service address noted on the Application, on August 02, 2012. The Tenant cited a Canada Post tracking number that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Act*, however the Agent for the Landlord did not appear at the hearing.

The Tenant stated that copies of an amended Application for Dispute Resolution and some additional documents the Tenant wishes to rely upon as evidence were sent to the Landlord, via regular mail, at the service address noted on the Application, on October 02, 2012. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Act*. These documents clearly indicate that the Tenant intends to increase the amount of his claim to include compensation for one month's rent and compensation for costs of mailing documents to the Landlord.

The dispute resolution process allows a Tenant to claim for compensation or loss as the result of a breach of *Act*. With the exception of compensation for filing the Application for Dispute Resolution, the *Act* does not allow either party to claim compensation for costs associated with participating in the dispute resolution process. I therefore decline

to consider the Tenant's application to recover mailing costs, as neither party is entitled to compensation of this nature.

Issue(s) to be Decided

The issue to be decided is whether the Tenant is entitled to the return of his security deposit, compensation for property left behind at the end of the tenancy, and compensation for being required to vacate the rental unit.

Background and Evidence

The Tenant stated that this tenancy began on January 01, 2012; that he was required to pay monthly rent of \$400.00; that he paid a security deposit of \$200.00; that the tenancy ended on May 31, 2012; that the Tenant did not authorize the Landlord to retain the security deposit; and that the Landlord did not return any portion of the security deposit. The Tenant submitted an unsigned receipt that indicates he paid a \$200.00 security deposit.

The Tenant stated that he provided an agent for the Landlord with his forwarding address on June 01, 2012 when they completed the final condition inspection report. He stated that he cannot recall whether he gave his address to the agent in writing or verbally, but the agent told him that he wrote it down on the condition inspection report.

The Tenant stated that on June 20, 2012 he mailed his forwarding address to the Landlord, via regular mail.

The Tenant stated that he left a variety of personal items in the rental unit, including 2 text books, valued at \$141.96 when they were new; 2 diplomas, valued at \$30.00; \$100.00 worth of kitchen items, and a television, valued at \$20.00. He stated that he could not take the property with him when he left as he did not have any means of moving it and that when he returned to retrieve those items on July 01, 2012 he was told they had been discarded. The Tenant is seeking compensation, in the amount of \$312.06, in compensation for property he left in the rental unit.

The Tenant stated that the Landlord verbally informed him that he was selling the property and that he wanted him to move. The Tenant stated that he complied with this request and he moved on May 31, 2012. He stated that he was not served with any sort of written notice to end the tenancy. The Tenant believes that he is entitled to the equivalent of one month's compensation because the Landlord asked him to move.

Analysis

On the basis of the evidence provided by the Tenant and in the absence of evidence to the contrary, I find that the Tenant paid a security deposit of \$200.00; that the Landlord did not return any portion of the security deposit; that the Tenant did not authorize the Landlord to retain any portion of the security deposit; that the tenancy ended on May 31,

2012; and that the Tenant mailed his forwarding address to the Landlord on June 20, 2012. I have no evidence to show that the Landlord filed an Application for Dispute Resolution claiming against the security deposit or that the Landlord had the legal right to retain any portion of it.

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit or make an application for dispute resolution claiming against the deposits. In the circumstances before me, I find that the Landlord failed to comply with section 38(1), as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1), the Landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit that was paid.

Section 25(2)(a) of the *Residential Tenancy Regulation* stipulates that a landlord may dispose of property that has been abandoned by a tenant if the landlord reasonably believes that the property had a total market value of less than \$500.00. As the Tenant has estimated that the property left behind was worth less than \$500.00, I find that the Landlord had the right to dispose of the property. I therefore dismiss the Tenant's application for compensation for the property he left at the rental unit.

Section 51(1) of the *Act* stipulates that a tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice, an amount that is the equivalent of one month's rent payable under the tenancy agreement. As there is no evidence that the Tenant received a written notice to end tenancy pursuant to section 49 of the *Act*, I find he is not entitled to compensation that is the equivalent of one month's rent.

Conclusion

I find that the Tenant has established a monetary claim of \$400.00, which is double the security deposit he paid and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced 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*.

Dated: October 15, 2012.

Residential Tenancy Branch