



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, ERP, RPP, LRE

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of the security deposit; a monetary Order for money owed or compensation for damage or loss; an Order requiring the Landlord to return personal property; an Order requiring the Landlord to make emergency repairs; and an Order suspending or setting conditions on the Landlord's right to enter the rental unit.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord, via registered mail, at the service address noted on the Application, on September 04, 2012. Canada Post documentation was submitted that corroborates this statement and which shows that the package was returned to the sender. 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 submitted documents to the Residential Tenancy Branch, copies of which were not served to the Landlord. After being advised that the documents submitted to the Residential Tenancy Branch could not be considered as evidence, the Tenant elected to withdraw all of the claims, with the exception of the claim for the return of the security deposit. The Tenant retains the right to file another Application for Dispute Resolution for those matters that were withdrawn.

Issue(s) to be Decided

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

Background and Evidence

The male Tenant stated that this tenancy began on June 01, 2012; that they paid a security deposit of \$300.00; that the Tenant did not authorize the Landlord to retain the security deposit; that the Landlord did not return any portion of the security deposit; and that the Tenant provided the Landlord with a forwarding address, via registered mail, on September 04, 2012.

The female Tenant stated that they did not pay their rent on time in August of 2012; that the Landlord did not serve them with a Notice to End Tenancy; that the Landlord changed the locks to the rental unit on August 24, 2012; that they have not been able to live in the rental unit since that date; and that they have since recovered some of the personal property that was left in the rental unit.

Analysis

On the basis of the undisputed evidence, I find that the Tenant paid a security deposit of \$300.00; 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 Landlord changed the locks to the rental unit on, or about, August 24, 2012; and that the Tenant provided the Landlord with a forwarding address, via registered mail, on September 04, 2012.

I find, pursuant to section 44(1)(f) of the *Act*, that this tenancy ended on August 24, 2012 when the Landlord changed the locks to the rental unit. Given that the Tenant has not resided in the rental unit since that date and the actions of the Landlord made it difficult, if not impossible, for the Tenant to live in the rental unit after that date, I find it reasonable to conclude that this was the end date of the tenancy even though the tenancy was not ended in accordance with sections 44(1)(a), 44(1)(b), 44(1)(c), 44(1)(d), or 44(1)(e) of the *Act*.

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. As the deposit has not been repaid and there is no evidence that the Landlord filed an Application for Dispute Resolution, I find that the Landlord failed to comply with section 38(1) of the *Act*.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1) of the *Act*, 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.

Conclusion

I find that the Tenant has established a monetary claim of \$600.00 which is double the security deposit and I grant 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: November 19, 2012.

Residential Tenancy Branch