



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF, SS

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking an alternate method of service of documents and evidence and a monetary order. The hearing was conducted via teleconference and was attended by the tenant and one of the landlords.

The tenant clarified that he was advised by Service BC to seek substituted service but that he did serve the landlords with notice of this hearing by registered mail, in accordance with Section 89 of the *Residential Tenancy Act (Act)*. As such, I amend the tenant's Application to exclude the matter of service.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of double the amount of the security deposit and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

Background and Evidence

The parties agree the tenancy began on September 1, 2011 as a month to month tenancy for the monthly rent of \$800.00 due on the 1st of each month with a security deposit of \$400.00 paid. The parties also agree the tenancy ended when the tenant vacated the rental unit on June 1, 2012.

The tenant testified that he had not provided the landlord with his forwarding address in writing because it is a small community and you keep your post office box number whenever you move.

The landlord testified she had not returned any of the deposit because the tenant gave late notice to end the tenancy and she had verbal agreement from the tenant that if she did not rent the unit for the month of June 2012 she would retain the deposit.

The parties acknowledge there was a previous hearing that the tenant attended but the landlord did not. The landlord testified that she did not receive a copy of that decision but she had received notice of that hearing from the tenant. In the decision from that hearing the Arbitrator allowed the tenant to withdraw his Application.

Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address in writing, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Even if the tenant had not specifically provided his forwarding address in writing to the landlord because he would be keeping his postal box number based on the landlord's testimony that she had been aware of the previous hearing, I find that the tenant would have been served with documents for that hearing that was held on September 26, 2012.

The documents she would have received included the tenant's Application for Dispute Resolution that included his address and I find the landlord had received the tenant's forwarding address in writing before September 26, 2012. Therefore, I find the landlord had until October 11, 2012 to either return the deposit or file an Application for Dispute Resolution seeking to claim against the deposit.

As the landlord has not filed any Applications seeking to retain the deposit for any purpose I find the landlord has failed to comply with Section 38(1) of the *Act* and the tenant is entitled to compensation under Section 38(6).

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$850.00** comprised of \$800.00 double the security deposit and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlords. If the landlords fail to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: March 11, 2013

Residential Tenancy Branch

