



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD and FF

Introduction

This hearing was convened on the tenant's application of March 8, 2013 seeking a Monetary Order for return in double of her security deposit retained without consent or without the landlord having made application for dispute resolution to claim against it. The tenant also sought to recover the filing fee for this proceeding from the landlord.

Despite having been served with the Notice of Hearing sent by registered mail, the landlord did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for return of her security deposit and should the amount be doubled as required by section 38(6) of the *Act*?

Background and Evidence

This tenancy began on September 1, 2012 and ended on January 31, 2013. Rent was \$825 per month and the landlord holds a security deposit of \$412.50 paid on September 1, 2012..

During the hearing, tenant submitted into evidence:

1. copy of her cheque paying the deposit for \$412.50 dated September 1, 2012;
2. copy of her letter giving notice to end the tenancy dated December 29, 2012;
3. copy of her letter dated February 5, 2013 including her forwarding address and requesting return of her deposit, sent by registered mail;
4. several photographs showing the unit to be clean;
5. copy of a receipt for \$100 from a professional carpet cleaning company.

The tenant stated that the landlord had refused to provide her with the landlord's address (a breach of section 13(2)(e) of the Act), which the tenant had obtained through a search. The landlord had not attended the rental unit on the move-out day.

The tenant stated that the landlord had told her that she would not be returning the security deposit because she believed the tenancy would last for at least a year, although the tenant stated it was not a fixed term tenancy.

Analysis

Section 38(1) of the *Act* allows a landlord 15 days from the latter of the end of the tenancy or receipt of the tenant's forwarding address to return security and pet damage deposits or file for dispute resolution to make claim against them unless the tenant has agreed otherwise in writing as per section 38(4).

Section 38(6) of the *Act* states that, if a landlord does not comply with section 38(1) of the *Act*, the landlord must pay the tenant double the amount of the deposits.

I accept the evidence of the tenant that the landlord had not returned her security deposit within the latter of 15 days from the end of the tenancy or receipt of the tenant's forwarding address and that it remains outstanding.

Therefore, I find that the tenant is entitled to return of her deposit in double.

As the application has succeeded on its merits, I further find that the tenant is entitled to recover the filing fee for this proceeding from the landlord.

Therefore, I find that the tenant is entitled to a Monetary Order calculated as follows:

Security deposit paid September 1, 2012	\$412.50
To double security deposit per s. 38(6) of the <i>Act</i>	412.50
Filing fee	<u>50.00</u>
TOTAL	\$875.00

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order for **\$875.00**, enforceable through the Provincial Court of British Columbia, for service on the landlord.

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: April 15, 2013

Residential Tenancy Branch

