



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenants for the return of double the security deposit and the filing fee for this proceeding.

The Tenant said he served the Landlords with the Application and Notice of Hearing (the “hearing package”) by registered mail on February 7, 2013. The Tenant said the Landlords did not pick up the registered mail package the Tenant sent and the package was returned to sender. Based on the evidence of the Tenant, I find that the Landlords were served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlords’ absences.

Issues(s) to be Decided

1. Are the Tenants entitled to the return of double the security deposit?

Background and Evidence

This tenancy started on March 15, 2011 as a fixed term tenancy with an expiry date of March 15, 2012 and then the tenancy continued on a month to month basis. Rent was \$1,500.00 per month payable in advance of the 31st day of each month. The Tenant paid a security deposit of \$750.00 on March 15, 2011.

The Tenant said that they gave the Landlord written notice at the end of June, 2012 that they were moving out of the rental unit at the end of August, 2012. The Tenant said they gave the Landlord their written forwarding address in October, 2012 and the Landlord wrote them a letter dated October 29, 2012 confirming that the Landlord had received their forwarding address. The Tenant said there was a move in condition report completed and signed, but although they were present for the move out condition inspection the report was not completed or signed by the Tenants. The Tenant said they requested the Landlord to send their security deposit back, but the Landlord has not done so as of yet.

Further the Tenant said they are claiming \$105.00 and \$210.00 for their labour in work that they did on the rental unit. The Tenant did not provide an invoice or any supporting evidence other than a request to do the work on the move in condition inspection report.

The Tenant said they are now requesting their security deposit of \$750.00 to be returned. The Tenant continued to say that when they made the application they were told the Act states that if a Landlord does not return the security deposit within 15 days of the end of the tenancy the Tenant could be awarded double the security deposit. The Tenant said they were told to apply for double the security deposit in the amount of \$1,500.00.

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 Landlords a forwarding address in writing on or before October 29, 2012. The Landlords did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenants' forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenants and I award the Tenants double the security deposit of \$750.00 in the amount of $\$750.00 \times 2 = \$1,500.00$.

Further for a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

With respect to the Tenants' monetary claim for his labour costs I find the Tenant has not proven the loss nor has he verified the loss with receipts therefore the Tenants' claim for labour costs in the amounts of \$105.00 and \$210.00 are dismissed without leave to reapply.

As the Tenant was partially successful in this matter I further order the Tenant to recover the cost of the filing fee of \$50.00 for this proceeding from the Landlords. Pursuant to section 38 and 67 a monetary order for \$1,550.00 will be issued to the Tenant. This Monetary order represents double the security deposit and the filing fee for this proceeding.

Double the security deposit (2 X \$750.00)	\$1,500.00	
Filing fee	\$ 50.00	
Balance owing		\$1,550.00

Conclusion

I find in favour of the Tenants' monetary claim. Pursuant to sections 38, 67 & 72 of the Act, I grant a Monetary Order for \$1,550.00 to the Tenants. The order must be served on the Respondents 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*.

Dated: April 30, 2013

Residential Tenancy Branch