



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a return of her security deposit, doubled, a monetary order for money owed or compensation for damage or loss, and for recovery of the filing fee.

The tenant and her advocate appeared; the landlord did not appear.

The tenant gave evidence that the landlord was served with her Application for Dispute Resolution and Notice of Hearing by registered mail on February 5, 2013. The tenant supplied the receipt and customer receipt, showing proof of mailing the registered mail and the tracking number of the registered mail. The tenant also gave evidence that the registered mail was claimed by the landlord.

I find the landlord was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to a monetary order which would include her security deposit, doubled, and to recover the filing fee?

Background and Evidence

The undisputed evidence shows that this tenancy, according to the tenancy agreement, began on October 7, 2012, monthly rent was \$950.00 and the tenant paid a security deposit of \$475.00 at the beginning of the tenancy. The tenant provided a copy of the security deposit receipt signed by the landlord.

The tenant said that the tenancy ended on or about December 15, 2012, and the landlord was provided her written forwarding address on January 9, 2013, in a letter via registered mail. The tenant provided proof that the landlord signed for the registered mail containing the written forwarding address.

The tenant stated that the landlord has not returned her security deposit, despite repeated requests, and is seeking monetary compensation for its return.

The tenant's relevant evidence included registered mail receipts for service of the written forwarding address, the application for dispute resolution and the tenant's evidence, proof that the registered mail envelopes were successfully delivered, a copy of the written forwarding address sent to the landlord, the tenancy agreement, and a follow-up letter from the advocate to the landlord.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 38 of the *Act* requires a landlord to either return a tenant's security deposit or to file an application for dispute resolution claiming against the security deposit within 15 days of receiving the tenant's forwarding address in writing or the end of the tenancy, whichever is later, unless the tenant's right to the security deposit has not been extinguished. If a landlord fails to comply, then the landlord must pay the tenant double the security deposit.

I do not find that the tenant's right to the security deposit have been extinguished by operation of the Act.

In the case before me, the undisputed evidence shows that the tenancy ended on December 15, 2012, and that the landlord received the tenant's written forwarding address which was sent via registered mail on January 9, 2013, the landlord has not applied for arbitration claiming against the security deposit, and has not returned any portion of the tenant's security deposit.

I therefore grant the tenant's application for dispute resolution and order that the landlord pay the tenant double her security deposit.

I find that the tenant has proven a monetary claim in the amount of \$1000, comprised of her security deposit of \$475, doubled to \$950, and for recovery of the filing fee of \$50.00 due to the tenant's successful application.

Conclusion

The tenant's application has been granted.

I therefore grant the tenant a final, legally binding monetary order in the amount of \$1000, which I have enclosed with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The landlord is advised that costs of such enforcement may be recovered from 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* and is being mailed to both the applicant and the respondent.

Dated: April 25, 2013

Residential Tenancy Branch