



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

Introduction

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

The tenant appeared; the landlord did not appear.

The tenant submitted evidence that she served the landlord with her Application for Dispute Resolution and Notice of Hearing by registered mail on March 7, 2013. The tenant provided the receipt for the registered mail showing the tracking number. Further, the tenant stated that the registered mail envelope was returned to her, marked "Return to sender."

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 includes her security deposit, doubled?

Background and Evidence

The tenant testified that this tenancy began on July 31, 2011, ended by January 29, 2013, that monthly rent began at \$700, increased to \$730, and she paid a security deposit in the amount of \$350 at the beginning of the tenancy.

The tenant gave evidence that she provided the landlord with her written forwarding address several times, but ultimately sent the landlord a letter via registered mail on February 15, 2013. The tenant provided a copy of the letter and the registered mail receipt.

Section 90 of the Act states that documents served by registered mail are deemed delivered five days later. Thus the landlord was deemed to have received the tenant's written forwarding address on February 20, 2013.

The tenant stated that the landlord has not returned her security deposit and is seeking monetary compensation of \$700, which is her security deposit of \$350, doubled.

The tenant's other relevant evidence included email communication between the parties, wherein the tenant attempted to address the issue of the security deposit with the landlord; however, the emails show that the landlord refused to return her security deposit.

I have no evidence before me that the landlord has filed an application for dispute resolution claiming against the security deposit.

Analysis

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

In the absence of the landlord after being duly served the notice of this hearing, I prefer the oral and written evidence of the tenant.

Under section 38(1) of the Act, at the end of a tenancy, unless the tenant's right to a return of their security deposit has been extinguished, a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy. If a landlord fails to comply, then the landlord must pay the tenant double the security deposit, pursuant to section 38(6) of the Act.

In the case before me, the undisputed evidence shows that the tenancy ended on January 29, 2013, and that the landlord was deemed to have received the tenant's written forwarding address on February 20, 2013, the landlord has not applied for

dispute resolution 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 \$700, comprised of her security deposit of \$350, doubled to \$700, and is therefore entitled to a monetary order in that amount.

Conclusion

I grant the tenant a final, legally binding monetary order in the amount of \$700, 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: May 29, 2013

Residential Tenancy Branch

