



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing dealt with an application by the tenant for an order for the return of double his security deposit. The tenant and the landlord called in and participated in the hearing. The landlord acknowledged that she was served with the application and Notice of Hearing by registered mail.

Issue(s) to be Decided

Is the tenant entitled to the return of double his security deposit?

Background and Evidence

The rental unit is a strata title apartment in Vancouver. The tenancy began in October, 2011. The tenant paid a security deposit of \$337.50 at the commencement of the tenancy. He gave notice in July that he intended to move out at the end of August. The tenant testified that he met the landlord at the rental unit at the end of August and took part in a condition inspection of the rental unit. He said that the landlord told him she would return his deposit later and he said that he wrote his forwarding address on a piece of paper and gave it to the landlord.

The landlord testified that she did not tell the tenant that she would return his deposit. She told him that the strata corporation was charging her the sum of \$350.00 because the tenant damaged the electric gate exiting the parking area. She testified that the tenant did not provide his forwarding address to her when he moved out and that she did not receive his address until she was served with the application for dispute resolution after February 15, 2013.

Neither party submitted any documentary evidence. The tenant did not provide a copy of the paper with his forwarding address that he claimed to have given to the landlord at the end of August.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. The landlord's obligation to deal with the deposit is not triggered until such time as the landlord has received the address in writing. The tenant bears the burden of proving that he provided his forwarding address in writing to the landlord before making his application for dispute resolution. The landlord denied receiving the tenant's forwarding address before she was served with the tenant's application. I find that the tenant has failed to prove, on a balance of probabilities that he gave his forwarding address in writing when he moved out at the end of August. At the hearing the tenant confirmed that the address for service he provided on his application for dispute resolution is his forwarding address. The landlord is hereby put on notice that she is deemed to have received the tenant's forwarding address in writing on May 13, 2013, which is 5 days from the date of this decision. The landlord must either make an application for dispute resolution or return the deposit to the tenant no later than May 27, 2013.

Conclusion

The tenant's claim is dismissed with leave to reapply.

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: May 08, 2013

Residential Tenancy Branch

