



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This was an application by the tenants for the return of their security deposit including double the deposit amount. The hearing was conducted by conference call. The tenants participated in the hearing. The landlord did not attend although he was served with the application and Notice of Hearing sent by registered mail on February 25, 2013.

Issue(s) to be Decided

Are the tenants entitled to the return of their security deposit including double the amount?

Background and Evidence

The rental unit is a house in Abbotsford. The tenants responded to an internet advertisement offering the unit for rent. They met the respondent and signed an agreement to rent the house for \$1,200.00 per month. They paid the respondent a \$600.00 security deposit and \$1,200.00 rent for March.

Later in March after the tenants learned that the respondent was not the owner of the rental property when the owner's realtor attended at the rental unit to serve the respondent with a 10 day Notice to End Tenancy for unpaid rent. The tenants said the owner of the rental property evicted the respondent because he was not paying rent.

The tenants entered into a new tenancy agreement with the owner of the rental property to rent the property from him commencing May 1, 2012. On May 14, 2012 the tenants served the landlord with a written request to return their security deposit and provided the respondent with their forwarding address.

The respondent landlord did not return the security deposit and he did not file an application for dispute resolution to claim the deposit.

Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

The tenancy ended when the respondent was evicted and his tenancy with the landlord ended. I am satisfied that the tenants provided the landlord with their forwarding address in writing, and I find that the tenants served the landlord with documents notifying the landlord of this application as required by the *Act*.

The tenants' security deposit was not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the doubling provision of section 38(6) therefore applies. I grant the tenants' application and award them the sum of \$1,200.00. The tenants is entitled to recover the \$50.00 filing fee for this application for a total claim of \$1,250.00 and I grant the tenants a monetary order against the respondent in the said amount. This order may be registered in the Small Claims Court and enforced 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: May 16, 2013

Residential Tenancy Branch

