



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wilson Recovery Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC
Introduction

This hearing dealt with an application by the tenant seeking a monetary order for money owed or compensation for damage or loss suffered under the Act, the regulations or the tenancy agreement and an order seeking the return of double the security deposit. The tenant participated in the conference call hearing but the landlord(s) did not. The tenant presented evidence that the landlords were served with the application for dispute resolution and notice of hearing by registered mail on February 12, 2013. I found that the landlords had been properly served with notice of the tenants' claim and the date and time of the hearing and the hearing proceeded in their absence.

Counsel for the tenant testified that they have the tenants' full instructions to proceed in their absence.

Issues to be Decided

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

Is the tenant entitled to a monetary order for compensation?

Background and Evidence

The tenancy began on or about February 1, 2011 and ended on March 1, 2011. Rent in the amount of \$375.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$187.50. The tenant provided their forwarding address with the assistance of counsel to the landlord on October 31, 2011. The tenants counsel advised that the living

conditions in this complex was far below an acceptable standard. The City of Vancouver submitted an Order for injunctive relief to deal with these deficiencies. The deficiencies that directly affected the subject tenant of this hearing were; holes in the drywall, lack of hot water, consistently leaking pipes, lack of heating, cockroach infestations, rat and mice infestations, common restrooms that were never cleaned and often not working, and a no guest policy whatsoever.

Analysis

In first dealing with the tenants claim for the return of double the security deposit.

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.

The landlord did not return the deposit or file for dispute resolution as is required above.

I find that the tenant is entitled to the return of double their deposit of $\$187.50 \times 2 = \375.00 .

The tenant was also seeking \$93.75 for being homeless for one month. Based on the insufficient and very limited information provided during the hearing I am not satisfied that the tenant has established entitlement to this claim. I dismiss this portion of the tenants' application.

As for the monetary order, I find that the tenant has established a claim for \$375.00. I grant the tenant an order under section 67 for the balance due of \$375.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenant is granted a monetary order for \$375.00.

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

