



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD and FF

Introduction

This hearing was convened on the tenant's application of March 16, 2013, amended March 19, 2013, seeking a Monetary Order for return of his security deposit retained without consent or without the landlord having made application for dispute resolution to claim against it.

Despite having been served with the Notice of Hearing sent by registered mail on March 20, 2013, the landlord did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for return of his security deposit and must the amount must be doubled as required by section 38(6) of the *Act*?

Background and Evidence

This tenancy, in a unit owned by the landlord in a strata titled building, began on May 7, 2012 under a fixed term rental agreement to November 30, 2012 with vacancy required at the conclusion. The tenant vacated on November 27, 2012.

Rent was \$1,850 per month and the landlord holds a security deposit of \$925 paid on or about May 7, 2012.

During the hearing, the tenant gave evidence that the landlord had assured him at the end of the tenancy that he would be returning the security deposit; however, he later stated that he did not have the funds to do so..

The tenant stated that he had provided the landlord with his forwarding address three times, the last time in early February 2013 in person.

Analysis

Section 38(1) of the *Act* allows a landlord 15 days from the latter of the end of the tenancy or receipt of the tenant's forwarding address to return security and pet damage deposits or file for dispute resolution to make claim against them unless the tenant has agreed otherwise in writing as per section 38(4).

Section 38(6) of the *Act* states that, if a landlord does not comply with section 38(1) of the *Act*, the landlord must pay the tenant double the amount of the deposits.

In the present matter, I accept the evidence of the tenant that the landlord has not returned the security deposit and did not make application to claim against it within the 15 days permitted under section 38(1) of the *Act*.

Therefore, I find that the tenant is entitled to a Monetary Order for return of the deposit and that the amount must be doubled. As the application has succeeded on its merits, I further find that the tenant is entitled to recover the filing fee for this proceeding from the landlord. Thus, I find that the landlord owes the tenant an amount calculated as follows:

Security deposit	\$ 925.00
To double deposit as per s. 38(6)	925.00
Filing fee	<u>50.00</u>
TOTAL	\$1,900.00

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order for **\$1,900.00**, enforceable through the Provincial Court of British Columbia, for service on 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*.

Dated: June 17, 2013

Residential Tenancy Branch

