



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MacDonald Realtors
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSD and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of the security deposit and to recover the filing fee from the Landlord for the cost of filing this application.

The Tenant stated that on March 22, 2013 she, the co-tenant, and her mother delivered the Application for Dispute Resolution and Notice of Hearing to the receptionist at the Landlord's business office. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Landlord did not appear at the hearing.

The Tenant stated that on May 28, 2013 she delivered a package of evidence to the receptionist at the Landlord's business office. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 88 of the *Act* and I accept them as evidence for these proceedings.

Issue(s) to be Decided

Is the Tenant is entitled to the return of the security deposit?

Background and Evidence

The Tenant submitted a tenancy agreement that shows this tenancy began on September 01, 2010 and that she paid a security deposit of \$575.00. The Tenant stated that this tenancy ended on September 01, 2012; that the Tenant did not authorize the Landlord to retain any portion of the security deposit; that the Landlord did not return any portion of the security deposit; and that she has no knowledge of the Landlord filing an Application for Dispute Resolution claiming against the security deposit.

The Tenant stated that on September 29, 2012 she sent the Landlord an email, in which she provided a forwarding address. A copy of that email was submitted in evidence.

The Tenant stated that on November 05, 2012 she delivered a document to the receptionist at the Landlord's business office, in which she provided her forwarding address. A copy of the document was submitted as evidence.

Analysis

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit or make an application for dispute resolution claiming against the deposits.

On the basis of the undisputed evidence, I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution within fifteen days of the tenancy ending and the day the Landlord received the forwarding address, in writing.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1) of the *Act*, the landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit that was paid.

Conclusion

The Tenant has established a monetary claim of \$1,200.00, which is comprised of double the security deposit and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia 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: June 18, 2013

Residential Tenancy Branch

