



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Enterprise L.T.D. dba Salish Villa Apt.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC and FF

Introduction

This hearing was convened on the tenant's application of May 13, 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. The tenant also sought an award for return of his garage door opener deposit and recovery of the filing fee for this proceeding. A further request for return of rent was dismissed without leave to reapply for lack of evidence.

Despite having been served with the Notice of Hearing sent by registered mail on May 14, 2013 and an amendment sent by registered mail on May 30, 2013, the landlord did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

The form of the landlord's corporate name appears unconventional in the use of L.T.D. but it is reproduced as written on the rental agreement and on the tenant's application.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for return of his security deposit retained without authorization and be must the amount be doubled as required by section 38(6) of the *Act*? Also, is the tenant entitled to return of his garage door opener deposit?

Background and Evidence

This tenancy began in May of 2011 and ended on or about May 25, 2012. Rent was \$800 per month and the landlord holds a security deposit of \$385 paid at the beginning of the tenancy, as well as a \$35 garage door opener deposit.

During the hearing, the tenant gave evidence that, as he had not been able to effect return of his deposits and noting that the one-year time limit within which his right to claim the deposit would be extinguished, he attempted to serve the landlord in person with his forwarding address on May 13, 2013 but she refused to accept it. Therefore, he sent the address with a request for return of the deposits by registered mail on May 14, 2013 along with a copy of the Notice of Hearing.

The tenant submitted a copy of the rental agreement showing payment of the security deposit. Parts of the agreement are illegible such as the record of payment of the garage door opener deposit, but the tenant stated that he had paid the \$35 deposit. The tenant also submitted a copies of his first full month's rent cheque dated May 31, 2011 and his last rent check payment dated April 30, 2012 for payment of his rent for May 2012.

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.

Section 39 of the *Act* permits a tenant one-year following the end of the tenancy to provide the forwarding address and request return of the deposit or the right to claim is extinguished.

I find that the tenant provided the landlord with the forwarding address in time.

In the absence of any evidenced to the contrary, I find that the landlord failed to return the security deposit within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address. Therefore, I find that the tenant is entitled to return of the security deposit and that the amount must be doubled.

I further accept the evidence of the tenant that he returned the garage door opener, but his deposit was not returned and its value should be included in the Monetary Order.

In addition, I find that the tenant is entitled to recover the filing fee for this proceeding from the landlord.

Therefore, I find that the tenant is entitled to a Monetary Order calculated as follows:

Security deposit (no interest due)	\$385.00
To double security deposit	385.00
Garage door opener deposit	35.00
Filing fee	<u>50.00</u>
TOTAL	\$855.00

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order for **\$855.00**, 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: August 13, 2013

Residential Tenancy Branch

