



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The tenant applied for the return of double her security deposit, and to recover her filing fee.

The tenant, the landlord and the son of the landlord appeared at the teleconference hearing and gave affirmed testimony. The hearing process was explained to the parties and an opportunity to ask questions about the hearing was provided to the parties.

The landlord stated that she received the evidence from the tenant prior to the hearing and that she had the opportunity to review the tenant's evidence prior to the hearing. The tenant stated that she did not receive evidence from the landlord prior to the hearing, which the landlord did not dispute. As a result, the evidence of the landlord was excluded as I find the landlord did not serve the tenant with her evidence in accordance with the rules of procedure.

Issue to be Decided

- Is the tenant entitled to the return of double her security deposit under the *Act*?

Background and Evidence

The parties agree that a fixed term tenancy agreement began on December 1, 2012 and ended on May 31, 2013, which required the tenant to provide vacant possession of the rental unit to the landlord at the end of the tenancy. Monthly rent in the amount of \$1,200.00 was due on the first day of each month. A security deposit of \$600.00 was paid by the tenant at the start of the tenancy.

The tenant stated that she provided her written forwarding address to the landlord on June 1, 2013 on the outgoing condition inspection report which the landlord confirmed during the hearing.

The landlord stated that she continues to hold the tenant's \$600.00 security deposit. The tenant stated that she did not sign over any portion of her security deposit to the landlord. The landlord confirmed that she has not filed an application under the *Act* claiming towards the security deposit.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Tenant's claim for the return of double her security deposit – I accept that the tenancy ended on May 31, 2013. Section 38 of the *Act* applies which states:

Return of security deposit and pet damage deposit

38 (1) 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.

(6) 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.

[emphasis added]

In the matter before me, **I find** that the landlord did not repay the security deposit or make an application for dispute resolution claiming against the security deposit. Given the above, **I find** the landlord breached section 38 of the *Act* by failing to return the security deposit to the tenant within 15 days of receiving the forwarding address of the tenant in writing on June 1, 2013, having not made a claim towards the security deposit. Therefore, **I find** the tenant is entitled to the return of double the original security deposit of \$600.00 for a total of **\$1,200.00**. I note that the security deposit has accrued \$0.00 in interest since the start of the tenancy.

As the tenant was successful with her application, **I find** that the tenant is entitled to recover the filing fee in the amount of **\$50.00**.

Monetary Order – I find that the tenant has established a total monetary claim in the amount of **\$1,250.00**, comprised of the \$600.00 security deposit which has been doubled under the *Act* to \$1,200.00 plus the \$50.00 filing fee. **I grant** the tenant a monetary order pursuant to section 67 of the *Act* in the amount of **\$1,250.00**. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

I grant the tenant double her security deposit due to the landlord's breach of section 38 of the *Act*. I grant the tenant a monetary order under section 67 in the amount of \$1,250.00. This order must be served on the landlord, and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

For the benefit of both parties, I am including a copy of *A Guide for Landlords and Tenants in British Columbia* with my Decision written in the Chinese Traditional language and the English language.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 10, 2013

Residential Tenancy Branch

