



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 scheduled in response to an application by the tenants for a monetary order reflecting the double return of the security deposit / and recovery of the filing fee. Female tenant "CMD" attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of "Xpress post," the landlord did not appear. Evidence submitted by the tenants includes the Canada Post tracking number for the "Xpress post," and the Canada Post website informs that the item was "successfully delivered."

Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which the parties agreed would begin on April 15, 2013. It was also agreed that monthly rent of \$1,300.00 was due and payable in advance on the first day of each month.

A security deposit of \$650.00 was paid on March 28, 2013. However, prior to beginning to move their possessions into the unit, the tenants identified miscellaneous concerns with the landlord around the level of cleanliness in the unit and the condition of the carpet. Ultimately, however, the tenants determined that the unit had simply not been made sufficiently clean for them to finish moving in. Accordingly, they verbally informed the landlord on April 24, 2013 of their decision not to proceed with the tenancy.

The tenant testified that she attempted informally to resolve the disposition of the security deposit with the landlord, but that no agreement was reached. Subsequently, by letter dated May 6, 2013 the tenants formally notified the landlord of their intention not to proceed with the tenancy. In their letter the tenants also requested the return of

their security deposit, and provided their forwarding address to the landlord for that purpose. This letter was sent by registered mail, and evidence submitted by the tenants includes the Canada Post tracking number for the registered mail; the Canada Post website informs that the item was “successfully delivered.” Thereafter, however, the security deposit was not returned, and there is no evidence that the landlord filed an application for dispute resolution. The tenants filed their application on July 2, 2013.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides 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 or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord neither repaid the security deposit, nor filed an application for dispute resolution “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.” In the result, I find that the tenants have established entitlement to compensation of **\$1,300.00** (2 x \$650.00), which reflects the double amount of the security deposit, in addition to recovery of the **\$50.00** filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$1,350.00** (\$1,300.00 + \$50.00). Should it be necessary, this order may be served on the landlord, filed in the 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: October 03, 2013

Residential Tenancy Branch

