



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DD Acquisition Partnership
and [tenant name suppressed to protect privacy]

Dispute Codes:

MNSD, MNDC, and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss; for the return of her security deposit; and to recover the fee for filing this Application.

The Tenant stated that her landlord changed during her tenancy but the Respondent in this matter was her landlord at the end of the tenancy. The Tenant submitted a copy of a condition inspection report that was completed at the end of the tenancy that corroborates her testimony that the Respondent was her landlord at the end of the tenancy. In the absence of evidence to the contrary, I find that the Respondent is the Landlord in this matter.

The Tenant stated that the Application for Dispute Resolution and Notice of Hearing were served to the Landlord, via registered mail, on July 18, 2013. The Tenant submitted Canada Post documentation that corroborates this testimony and that shows the package was delivered and signed for on July 22, 2013. 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 documents the Tenant wishes to rely upon as evidence were served to the Landlord, via registered mail, on October 08, 2013. The Tenant cited a Canada Post tracking number that corroborates this testimony. She stated that the package was returned to her with indication that it had been refused by the recipient. 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 stated that her tenancy in this rental unit began on June 01, 2012; that her written tenancy agreement required her to pay monthly rent of \$850.00 plus a \$10.00 parking fee by the first day of each month; that she paid a security deposit to the Landlord for a previous tenancy in the same residential complex; that in 2011 she paid 50% of a \$525.00 security deposit for the previous tenancy; that \$262.50 of that security deposit was transferred to this tenancy and was applied to the security deposit for this rental unit; that she paid an additional \$162.50 for a security deposit for this rental unit; and that in total a \$425.00 security deposit was paid for this tenancy.

The Tenant submitted a copy of a receipt, dated July 05, 2012, which indicates she paid a security deposit of \$193.00 on that date. In her written submission the Tenant stated that the amount on this receipt is incorrect, and that she actually paid \$162.50. The Tenant submitted a copy of a condition inspection report, which corroborates her testimony that a \$425.00 deposit was paid for this tenancy.

The Tenant stated that this tenancy ended on May 28, 2013; that the rental unit was inspected on May 28, 2013; and that her forwarding address was written on the condition inspection report on May 28, 2013. The Tenant submitted a copy of the condition inspection report that corroborates this testimony.

The Tenant stated that she also provided the Landlord with her forwarding address, in writing, on April 31, 2013 when she provided the Landlord with written notice of her intent to end the tenancy. The Tenant submitted a copy of this letter that corroborates her testimony.

The Tenant stated that she did not authorize the Landlord to retain the security deposit; that the Landlord did not return any portion of the security deposit; and that she does not believe the Landlord filed an Application for Dispute Resolution claiming against the security deposit.

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 evidence before me and in the absence of evidence to the contrary, I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not refunded the security deposit or filed an Application for Dispute Resolution within fifteen days of the tenancy ending and within fifteen days of receiving the Tenant's forwarding address.

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.

I find that the Tenant's Application for Dispute Resolution has merit and she is, therefore, entitled to recover the fee paid to file the Application.

Conclusion

The Tenant has established a monetary claim of \$900.00, which is double the \$425.00 security deposit plus the \$50.00 filing fee, and I grant a monetary Order in that amount. In the event 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 *Act*.

Dated: October 23, 2013

Residential Tenancy Branch

