



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested return of double the security deposit.

The agent for the tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent on to the landlord on October 3, 2013 via registered mail at the address noted on the Application. A Canada Post tracking number was provided as evidence of service to the landlord; the tenant has the receipt.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however the landlord did not appear at the hearing.

Preliminary Matters

On November 29, 2013 the landlord submitted a 23 page evidence package to the Prince George Service BC office. The landlord did not attend this hearing. Therefore, in the absence of evidence the landlord's written response had been given to the tenant, the evidence submission was set aside. I note that the landlord's evidence was given to the Residential Tenancy Branch 4 days prior to the hearing; not the 5 days required by Residential Tenancy Rules of Procedure.

Issue(s) to be Decided

Is the tenant entitled to return of double the \$475.00 security deposit paid?

Background and Evidence

The tenancy commenced on April 26, 2013 when the tenant moved into the unit. The tenant did not have a copy of the tenancy agreement. A security deposit in the sum of \$475.00 was paid.

The tenant vacated the rental unit on August 31, 2013. On September 4, 2013 the tenant sent the landlord a letter via regular mail. The letter was read during the hearing; it asked that the landlord return the deposit in full no later than September 19, 2013 or the tenant would submit an application for dispute resolution. The forwarding address and tenant's phone number were included in the letter.

The tenant has not received the security deposit.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

There is no doubt that the landlord, at the very least, received the tenant's forwarding address effective October 8, 2013, when the notice of hearing package was deemed served to the landlord. On November 29, 2013 the landlord made an evidence submission to the Residential Tenancy Branch; there was no evidence before me that the landlord had submitted an application claiming against the tenant's security deposit within fifteen days of October 8, 2013.

Further, I find that effective the 5th day after September 3, 2013 the landlord is deemed to have received the tenant's letter requesting return of the security deposit. When the landlord failed to return the deposit or submit an application claiming against the deposit within fifteen days of September 8, 2013, I find, pursuant to section 38(6) of the Act that the landlord must pay the tenant double the \$475.00 security deposit.

Based on these determinations I grant the tenant a monetary Order in the sum of \$950.00. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The tenant is entitled to return of double the \$475.00 security deposit.

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: December 06, 2013

Residential Tenancy Branch

