



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for a return of his security deposit, doubled.

The tenant and his advocate attended the telephone conference call hearing; the landlord did not attend.

The tenant testified and provided documentary evidence that he served the landlord with the Application for Dispute Resolution and Notice of Hearing by registered mail on August 28, 2013. The tenant provided the receipt containing the tracking number of the registered mail. I note that the listed landlord here is the management agent of the corporate landlord listed in the tenancy agreement, as shown by the documentary evidence submitted by the landlord. Despite having served documentary evidence to the Residential Tenancy Branch ("RTB") and to the tenant in advance of this hearing, the landlord failed to attend.

Based upon the submissions of the tenant, I find the landlord was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the landlord's absence.

The tenant and his advocate were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to a monetary order, which includes his security deposit?

Background and Evidence

The tenant provided oral and documentary evidence that this tenancy began on April 1, 2013, ended on or about June 27, 2013, monthly rent was \$500, and a security deposit of \$250 was paid by the tenant at the beginning of the tenancy.

The tenant submitted that the landlord illegally changed the locks to the rental unit on June 27, 2013, before he had a chance to completely remove his personal property.

The tenant gave evidence that he provided the landlord with his written forwarding by registered mail on July 17, 2013. The tenant provided a copy of the letter and the registered mail receipt showing the tracking number.

Section 90 of the Act states that documents served by registered mail are deemed delivered five days later. Thus the landlord was deemed to have received the tenant's written forwarding address on July 22, 2013.

The tenant stated that the landlord has not returned his security deposit and is seeking monetary compensation of \$500, which is his security deposit of \$250, doubled.

I have no evidence before me that the landlord has filed an application for dispute resolution claiming against the security deposit.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

In the absence of the landlord after being duly served the notice of this hearing, I prefer the oral and written evidence of the tenant.

Under section 38(1) of the Act, at the end of a tenancy, unless the tenant's right to a return of their security deposit has been extinguished, a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy. If a landlord fails to comply, then the landlord must pay the tenant double the security deposit, pursuant to section 38(6) of the Act.

I do not find the tenant's right to a return of his security deposit has been extinguished.

In the case before me, the undisputed evidence shows that the tenancy ended on June 27, 2013, and that the landlord received the tenant's written forwarding address by July 22, 2013, the landlord has not applied for dispute resolution claiming against the security deposit, and has not returned any portion of the tenant's security deposit.

I therefore grant the tenant's application for dispute resolution and order that the landlord pay the tenant double his security deposit.

I find that the tenant is entitled to monetary award in the amount of \$500.

Conclusion

The tenant's application has been granted.

I therefore grant the tenant a final, legally binding monetary order in the amount of \$500, which I have enclosed with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The landlord is advised that costs of such enforcement are subject to recovery from 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* and is being mailed to both the applicant and the respondent.

Dated: December 04, 2013

Residential Tenancy Branch

