



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, MNSD, FF

Introduction

This hearing concerns the tenant's application for a monetary order for damage or loss under the Act, Regulation or tenancy agreement / compensation reflecting the double return of the security deposit / and recovery of the filing fee. The tenant attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing ("hearing package") by way of registered mail, the landlord did not appear. Evidence submitted by the tenant includes the Canada Post tracking number for the registered mail which was accepted at the Post Office on November 19, 2013, and the Canada Post website informs that the item was "unclaimed." Pursuant to section 90 of the Act which speaks to **When documents are considered to have been received**, I find that for the purposes of the Act the hearing package was served on Monday, November 25, 2013.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began on June 01, 2013. Monthly rent of \$800.00 was due and payable in advance on the first day of each month, and a security deposit of \$400.00 was collected. A move-in condition inspection report was not completed.

By letter dated August 26, 2013, the tenant gave notice to end tenancy effective September 30, 2013. Thereafter, the tenant vacated the unit on September 30, 2013. A move-out condition inspection report was not completed.

Subsequently, by letter dated October 23, 2013, the tenant informed the landlord of her forwarding address for the purpose of repayment of her security deposit. However, to date, no portion of the security deposit has been repaid.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, 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 being informed in writing by the tenant of her forwarding address. Accordingly, I find that the tenant has established entitlement to compensation of **\$800.00** (2 x \$400.00) which reflects the double return 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 tenant in the amount of **\$850.00**. 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: March 05, 2014

Residential Tenancy Branch

