



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD and FF

Introduction:

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of the security deposit and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

On April 29, 2014 the Tenant submitted documents to the Residential Tenancy Branch. The Tenant stated that the documents were served to the Landlord, via regular mail, on April 29, 2014. The Landlord stated that he did not receive this evidence. As the Landlord did not acknowledge receipt of the Tenant's evidence and the Tenant had no evidence to corroborate her testimony it was mailed to the Landlord, it was not accepted as evidence for these proceedings.

In the event it appeared that the documents submitted to the Residential Tenancy Branch on April 29, 2014 were going to be highly relevant to my decision in this matter, I would have considered an adjournment for the purposes of providing the Tenant with the opportunity to re-serve the documents. I was, however, able to conclude this matter without relying on the documentary evidence.

Issue(s) to be Decided:

Is the Tenant entitled to the return of the security deposit?

Background and Evidence:

The Landlord and the Tenant agree that this tenancy began on June 30, 2013 and that the Tenant paid a security deposit of \$550.00.

The Landlord and the Tenant agree that the tenancy ended on December 31, 2013 and that the Tenant provided the Landlord with a forwarding address, in writing, in January of 2014. The parties agree that the Tenant did not authorize the Landlord to keep any portion of the security deposit; that the Landlord did not return any portion of the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

The Landlord was not permitted to discuss damages to the rental unit during this hearing as the Landlord has not filed an Application for Dispute Resolution claiming compensation for damage. The Landlord was advised that he has the right to file an Application for Dispute Resolution claiming for compensation for damages.

The Tenant stated that she would like any award reduced by \$200.00 in compensation for a door that was damaged during the tenancy.

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 plus interest or make an application for dispute resolution claiming against the deposits.

On the basis of the undisputed evidence, I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution within the legislated time period.

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 that was paid.

I find that the Tenant's Application for Dispute Resolution has merit and that she is entitled to the fee for filing this Application.

Conclusion:

The Tenant has established a monetary claim of \$1,150.00, which is comprised of double the security deposit and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution. At the request of the Tenant, this claim is being

reduced by \$200.00, in compensation for damage to a door.

On the basis of these calculations I grant the Tenant a monetary Order for \$950.00. 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 *Residential Tenancy Act*.

Dated: May 13, 2014

Residential Tenancy Branch

