



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.

The Tenant stated that on February 17, 2014 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Tenant wishes to rely upon as evidence were sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant submitted a Canada Post receipt that corroborates this statement. 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.

On May 13, 2014 the Tenant submitted additional documents to the Residential Tenancy Branch. The Tenant stated these documents were not served to the Landlord and they were not, therefore, accepted as evidence for these proceedings.

Issue(s) to be Decided:

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

Background and Evidence:

The Tenants stated that they each paid a security deposit of \$250.00. The Tenant stated that the tenancy ended on December 15, 2013 and that they mailed a letter to the Landlord on January 14, 2014, in which they provided a forwarding address. A copy of this letter was submitted as evidence.

The Tenant stated that the Tenant did not authorize the Landlord to retain 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.

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 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, plus any interest due on the original amount.

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

Conclusion:

The Tenant has established a monetary claim of \$1,050.00, which is comprised of double the security deposit, and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that 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 29, 2014

Residential Tenancy Branch

