



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Greater Realty Care
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application for a monetary Order for return of double the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent on September 11, 2014 to the landlord via registered mail at the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service. The tenant provided a copy of the envelope sent to the landlord; returned, marked as "unclaimed" by Canada Post.

Refusal to claim registered mail does not allow a party to avoid service of documents. The tenant provided a copy of the agent's business card and used the service address shown on that card; as a copy of the signed tenancy agreement was not provided to the tenant.

Therefore, I find that 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.

Issue(s) to be Decided

Is the tenant entitled to return of double the \$850.00 security deposit paid?

Is the tenant entitled to filing fee costs?

Background and Evidence

The tenancy commenced in January 2012; rent was \$1,700.00 per month. An \$850.00 security deposit was paid and a receipt was issued to the tenants.

The tenancy ended in early June 2014. They walked through the unit with the landlord who told them the tenant he would receive the security deposit. Later the tenant contacted the landlord; who told the tenant the owner did not want to return the deposit.

The tenant did not sign a condition inspection report; a report was not completed.

A copy of a Canada Post registered mail receipt dated July 15, 2014 was supplied as evidence. On July 15, 2014 the tenant sent a letter to the landlord, which included the tenant's written forwarding address. That mail was refused by the landlord.

The landlord has not returned 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.

I have no evidence before me that a move-in condition inspection or move-out condition inspection was completed as required by the Act or that the tenant signed agreeing to any deduction from the deposit. Further, I have no evidence that that landlord has repaid the deposit after the tenant's attempts to serve the landlord with the forwarding address.

I find, pursuant to section 89 and 90 of the Act, that the landlord is deemed to have received the tenant's forwarding address on July 20, 2014; 5 days after the registered mail was sent containing the forwarding address. A refusal to retrieve registered mail does not allow a party to avoid service.

Therefore, as the security deposit has not been returned to the tenant, I find, pursuant to section 38(6) of the Act, that the tenant is entitled to return of double the \$850.00 security deposit paid to the landlord.

I find that the tenant's application has merit and that the tenant is entitled to recover the \$50.00 filing fee from the landlord for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the tenant a monetary Order in the sum of \$1,750.00. 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 \$850.00 security deposit.

The tenant is entitled to return of the \$50.00 filing fee.

This decision is final and binding and 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: November 03, 2014

