



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD; FF

Introduction

This is the Tenant's application for return of the security deposit and to recover the cost of the filing fee from the Landlord.

The Tenant gave affirmed testimony at the Hearing.

The Tenant testified that he served the Landlord with the Notice of Hearing documents and copies of his documentary evidence, by registered mail sent June 30, 2014. The Tenant stated that the documents were returned to him, unclaimed, on July 30, 2014. The Tenant testified that the Landlord did not provide him with a copy of the tenancy agreement, so he did not have an address for the Landlord. The Tenant stated that communication with the Landlord was mostly done by e-mails. The Tenant stated that the Landlord returned a portion of the security deposit in the amount of \$155.04 on June 5, 2014, and that the Tenant mailed the documents to the address on the Landlord's cheque. A copy of the cheque was provided in evidence.

Based on the Tenant's documentary evidence and affirmed testimony, pursuant to the provisions of Section 71(2)(b) of the Act, I find that the Landlord was sufficiently served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents, July 5, 2014.

Issues to be Decided

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

Background and Evidence

This tenancy ended on or about May 28, 2014. The Tenant testified that he provided the Landlord with his forwarding address "2 or 3 weeks" before he moved. The Tenant stated that he does not wish to seek compensation pursuant to the provisions of Section 38(6) of the Act, for double the amount of the security deposit.

The Tenant stated that he paid cleaners \$300.00 to clean the rental unit at the end of the tenancy. He testified that the Landlord wanted to charge him for damages that were there when the Tenant moved in, and for painting. The Tenant stated that there was no Condition Inspection Report completed at the beginning of the tenancy.

The Tenant stated that he did not give the Landlord permission to keep any of the security deposit in the amount of \$1,237.50, but that the Landlord only returned \$155.00 with no explanation. The cheque was sent to the Tenant's new address. The Tenant testified that he has not cashed the cheque.

Analysis

A security deposit is held in a form of trust by the Landlord for the Tenant, to be applied in accordance with the provisions of the Act.

Section 38(1) of the Act provides that (unless a landlord has the tenant's consent to retain a portion of the security deposit) at the end of the tenancy and after receipt of a tenant's forwarding address in writing, a landlord has 15 days to either:

1. repay the security deposit in full, together with any accrued interest; or
2. make an application for dispute resolution claiming against the security deposit.

The Landlord did not file an application for dispute resolution against the security deposit, and returned only a portion of the deposit.

Therefore, I find that the Tenant is entitled to return of the security deposit in the amount of **\$1,237.50** and **I order that the Tenant return the Landlord's cheque in the amount of \$155.04 to the Landlord.**

Pursuant to the provisions of Section 71(1) of the Act, **I further order that service of documents upon the Landlord may be completed by mailing documents, by registered mail, to the Landlord at the address provided on the Landlord's cheque.**

The Tenant has been successful in his application and I find that he is entitled to recover the cost of the **\$50.00** filing fee from the Landlord.

Conclusion

I hereby grant the Tenant a Monetary Order in the amount of **\$1,287.50** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

I order that the Tenant return the Landlord's cheque in the amount of \$155.04 to the Landlord forthwith.

I order that the Tenant may serve the Landlord with documents, by registered mail, at the address on the Landlord's cheque.

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: November 24, 2014

Residential Tenancy Branch

