



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD

Introduction

This is the Tenant's application for a monetary order for double the security deposit.

The parties gave affirmed testimony at the Hearing.

The Landlord acknowledged receipt of the Notice of Hearing documents and copies of the Tenant's documentary evidence by registered mail. The Landlord provided documentary evidence to the Residential Tenancy Branch, but did not serve the Tenant with copies of his evidence. Therefore, the Landlord's documentary evidence was not considered.

Issues to be Decided

- Is the Tenant entitled to a monetary order for double the security deposit pursuant to the provisions of Section 38 of the Act?

Background and Evidence

This tenancy began on June 10, 2013. The Landlord is holding the security deposit in the amount of \$1,250.00. The Tenant testified that the tenancy ended and the Tenant provided his forwarding address in writing to the Landlord. The Landlord acknowledged receipt of the Tenant's forwarding address in writing on July 2, 2014.

The parties completed a move-in Condition Inspection Report on June 10, 2013. The Landlord testified that he and the Tenant's wife met to complete a move-out Condition Inspection Report at the end of the tenancy, but they disagreed with respect to the condition of the rental unit and the Tenant's wife left before signing the Report. The Landlord stated that he completed the Report on his own.

The Tenant stated that the Landlord did not provide him with a copy of the move-out Condition Inspection Report.

The Landlord stated that he was surprised and disappointed at the state of cleanliness and repair at the end of the tenancy.

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, or return the security deposit, within 15 days of receipt of the Tenant's forwarding address in writing.

There was disagreement with respect to the facts surrounding the completion of a Condition Inspection Report at the end of the tenancy. I find that the Landlord did not provide sufficient evidence that he completed the Report and insufficient evidence that the Tenant extinguished his right to claim against the security deposit under the provisions of Section 38(2) of the Act.

Section 38(6) of the Act provides that if a landlord does not comply with Section 38(1) of the Act, the landlord **must** pay the tenant double the amount of the security deposit.

Therefore, I find that the Tenant is entitled to a monetary order for double the amount of the security deposit.

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

The Landlord retains the right to file an application for damages under Section 67 of the Act, if he so desires.

Conclusion

I hereby grant the Tenant a Monetary Order in the amount of **\$2,550.00** 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.

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: January 20, 2015

