



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Preliminary Issues

When checking each participant into the hearing the Landlord introduced herself as “going by” the name J.L. She clarified that her legal name was J.H.L. Accordingly, I amended the application to include the Landlord’s legal name as a.k.a. J.H.L. (also known as J.H.L.) as listed on the front page of this decision, pursuant to section 64(3)(c) of the Act.

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenant on September 09, 2014, to obtain a Monetary Order for the return of double their security deposit and to recover the cost of the filing fee for their application.

The hearing was conducted via teleconference and was attended by the Landlord and the Tenant. Each party gave affirmed testimony and confirmed receipt of evidence served by the Tenant. No evidence was received on file by the Landlord.

At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other’s testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Has the Tenant proven entitlement to a Monetary Order?

Background and Evidence

The undisputed evidence was that the Tenant entered into a month to month tenancy agreement that began on February 10, 2013. Rent of \$900.00 was due on or before the first of each month and on February 1, 2013 the Tenant paid \$450.00 as the security deposit. The Tenant gave notice to end the tenancy and on August 15, 2014 the tenancy ended and the Tenant returned the keys to the Landlord. No condition inspection report form was completed at move in or at move out.

The Tenant submitted documentary evidence which included copies of: the tenancy agreement; the August 16, 2014 email, her August 23, 2014 letter, and a photograph of the envelope taped to the Landlord's door.

The Tenant testified that she provided the Landlord with her forwarding address on August 16, 2014 by email and again on August 23, 2014, in the Tenant's written request for the return of their security deposit that was taped to the Landlord's door. The Landlord has not returned the deposit and so the Tenant now seeks return of double the security deposit.

The Landlord testified and confirmed that she received the Tenant's forwarding address as described by the Tenant. The Landlord stated that she did not return the security deposit because there was damage to the property. The Landlord confirmed that she has not made an application for dispute resolution to seek an order to keep the security deposit, she does not have the Tenant's written permission to keep the deposit, and she did not have a previously issued order granting her authority to keep the deposit.

Analysis

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:

Section 38(1) of the *Act* stipulates that if within 15 days after the later of: 1) the date the tenancy ends, and 2) the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit, to the tenant with interest or make application for dispute resolution claiming against the security deposit.

The undisputed evidence was that the tenancy ended August 15, 2014, and the Landlord received the Tenant's forwarding address on August 23, 2014. Therefore, the Landlord was required to return the Tenant's security deposit in full or file for dispute resolution to keep the deposit, no later than September 7, 2014. The Landlord did neither

Based on the above, I find that the Landlord has failed to comply with Section 38(1) of the *Act* and that the Landlord is now subject to Section 38(6) of the *Act* which states that if a landlord fails to comply with section 38(1) the landlord may not make a claim against the security deposit and the landlord must pay the tenant double the security deposit.

Based on the above, I find that the Tenant has succeeded in proving the merits of their claim, and I award them double their security deposit plus interest. Therefore, I grant the Tenant's application and award monetary compensation in the amount of **\$900.00**.

I find that the Tenant has succeeded with her application; therefore, I award recovery of the **\$50.00** filing fee.

Conclusion

The Tenants have been awarded a Monetary Order for **\$950.00** (\$900.00 + \$50.00). This Order is legally binding and must be served upon the Landlord. In the event that the Landlord does not 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: March 31, 2015

Residential Tenancy Branch

