



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for a monetary order for a return of his security deposit.

The listed tenant and "JP" attended the telephone conference call hearing; the landlord did not attend. The tenant submitted that JP was a co-tenant on the written tenancy agreement.

The tenant testified that he served the landlord with his Application for Dispute Resolution and Notice of Hearing by registered mail on January 5, 2015. The tenant submitted that he sent the registered mail to the dispute address as the landlord informed the tenant she was moving into the home for a time after the tenancy ended. The tenant submitted further that the registered mail was returned, unclaimed, and that he also reminded the landlord of the date and time of the hearing via email. The tenant submitted a copy of the email.

Based upon the submissions of the tenant, I find the landlord was served notice of this hearing and the tenant's application in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the landlord's absence.

The tenants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the tenant entitled to a monetary order comprised of his security deposit?

Background and Evidence

The tenant submitted that this tenancy began on June 1, 2012, ended on December 15, 2014, and that they paid a security deposit of \$700.00 at the beginning of the tenancy. The tenant submitted a copy of the written tenancy agreement.

The tenant submitted further that at the end of the tenancy, the parties performed a walk-through of the rental unit, that the landlord stated the rental unit looked good and they would be returned their security deposit.

Despite this assurance, the landlord returned only \$500.00 of the tenant's security deposit, keeping \$200.00.

The tenant submitted further that they were not aware of the requirement to send the landlord a written forwarding address, as the landlord used an email interac service to deposit the \$500.00 into their account. The tenant confirmed that he was not claiming double of the remaining security deposit, due to not providing the landlord an address other than through their application.

The tenant's monetary claim is \$200.00, comprised of the balance of their security deposit.

Analysis

Under section 38(1) of the Act, at the end of a tenancy a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy if the tenant's right to the security deposit have not been extinguished. Section 38(6) of the Act states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the amount of their security deposit.

In this case, the tenant submitted that they served the landlord their application by registered mail on January 5, 2015, and under section 90 of the Act, the application was deemed served 5 days later, or January 10, 2015. Although the tenant was not able to confirm that they gave the landlord a written forwarding address prior to filing their application, I do find that the landlord was properly served the tenant's application containing their address and a request the balance of their security deposit be returned.

Due to this, while I am unable to award the tenant double the amount of their remaining security deposit, I find that they are entitled to receive the remainder of their security

deposit, or \$200.00. Also, the tenant has not requested that their security deposit be doubled.

Under section 72(1) of the Act, I award the tenant recovery of their filing fee of \$50.00 paid for this successful application.

I therefore find the tenant is entitled to a monetary award of \$250.00.

I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of their monetary award of \$250.00, which is enclosed with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay, the order may be served on the landlord and may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are recoverable from the landlord.

Conclusion

The tenant's application is granted and he has been issued a monetary order in the amount of \$250.00

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: April 24, 2015

Residential Tenancy Branch

