



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 requesting 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 within two days of receiving the hearing documents dated October 8, 2014 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the landlord via registered mail to the address noted on the Application. The tenant did not have the tracking number and could not recall the specific date the mail was sent.

The mail was not returned.

The tenant said that he did not supply any evidence in support of the application.

An eight page evidence submission was in the file, marked as submitted by the tenant. The evidence included 28 photographs. The evidence was received by the Residential Tenancy Branch on February 25, 2015.

The tenant confirmed that he did not make this submission. The evidence included a copy of the hearing documents and a quote for work, issued to the landlord named on the application. I determined that the evidence was supplied by the respondent landlord.

As the landlord submitted evidence I determined that he had been sufficiently served with notice of the hearing no later than February 25, 2015, pursuant to Section 71(2) of the Act, which provides:

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

(a) that a document must be served in a manner the director considers necessary, despite sections 88 *[how to give or serve documents generally]* and 89 *[special rules for certain documents]*;

(b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;

(c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

(Emphasis Added)

The landlord did not attend the hearing.

Issue(s) to be Decided

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

Background and Evidence

The tenancy commenced on June 1, 2011 and ended September 1, 2014.

No condition inspection reports were completed although the tenant asked the landlord to walk through the unit with him at the end of the tenancy.

On August 31, 2014 the tenant issued a letter to the landlord that provided the tenant's forwarding address. On September 3, 2014 the tenant issued a second letter to the landlord telling the landlord he could deduct \$50.00 from the \$650.00 security deposit that had been paid.

Both letters were personally delivered to the landlord on September 3, 2014. The landlord, the landlord's wife, the tenant and a friend of the tenant were present on September 3, 2014.

The landlord told the tenant he would not return the deposit to the tenant. The tenant recorded this conversation on his phone.

The tenant has claimed return of double the \$675.00 security deposit and continues to agree to a \$50.00 deduction from the deposit for damage.

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.

The amount of deposit owed to a tenant is also contingent on any dispute related to damages and the completion of move-in and move-out condition inspections. In this case there is no dispute related to damages before me.

I have no evidence before me that that landlord has repaid the deposit as required once the tenancy ended and the landlord received the tenant's written forwarding address. The landlord had until September 18, 2014 to either return the deposit or submit a claim against the deposit. However, in the absence of a move-in condition inspection report the landlord would have extinguished the right to claim against the deposit for damage to the unit.

I find that by agreement of the tenant the value of the deposit at the end of the tenancy was \$650.00.

Therefore, pursuant to section 38(6) of the Act I find that the tenant is entitled to return of double the \$650.00 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 \$1,350.00. 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 double the balance of the security deposit in the sum of \$1,300.00.

The tenant is entitled to filing fee costs.

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: May 15, 2015

Residential Tenancy Branch