



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 requested return of the security deposit.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Issue(s) to be Decided

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

Background and Evidence

The tenancy commenced on July 1, 2012. A security deposit in the sum of \$302.50 was paid. A move-in condition inspection report was completed; a copy was supplied as evidence.

There was no dispute that the tenancy ended in August 2014. The tenant gave written notice ending the tenancy; a copy was supplied as evidence.

There had been a previous 10 day Notice to end tenancy for unpaid rent issued. That Notice was accompanied by a letter informing the tenant he should contact the apartment manager to perform an inspection.

Two apartment managers signed an undated note supplied as evidence. The managers submit that the tenant vacated on August 27, 2014 and that on the same day the tenant told the managers he would not be cleaning the apartment. The managers provide no evidence of a date and time that was scheduled for an inspection report. The agent present at the hearing had no information on the scheduling of an inspection.

The agent said that as the tenant as o planning on cleaning the managers did not proceed further with an inspection.

The landlord confirmed receipt of the tenant's written forwarding address on September 15, 2014. The landlord did not return the security deposit and has not made a claim against the deposit.

The parties confirmed that the tenant did not sign agreeing to deductions from the security deposit at the end of the tenancy.

The tenant wishes to have his deposit returned and declined any possible doubling of the deposit.

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.

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 was no claim before me in relation to damage.

There was no evidence before me that the landlord set a specific time and date for completion of the move-out condition inspection report. The May 2014 letter to the tenant indicated that the tenant was asked to contact the manager to schedule a report, which leads to me to believe that is the practice of the landlord when arranging inspection dates and times.

Section 35 of the Act sets out the obligation of the landlord and tenant in relation to the scheduling of an inspection at the end of a tenancy. The landlord must offer at least two opportunities for the inspection. Section 17 of the Residential Tenancy Regulation allows a tenant to propose an alternative time. There was no evidence before me that the landlord met the requirements of section 35 by giving the tenant at least two opportunities for an inspection date and time.

The tenant has declined a possible doubling of the security deposit that can be ordered pursuant to section 38(6) of the Act. Therefore, as the tenant did not sign agreeing to deductions and a claim was not made against the deposit I find that the tenant is entitled to return of the \$302.50 security deposit.

Based on these determinations I grant the tenant a monetary Order in the sum of \$302.50. 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 landlord is Ordered to return the security deposit to the tenant.

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 19, 2015

Residential Tenancy Branch

