



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This matter dealt with an application by the Tenants for the return of a security deposit.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on November 4, 2014. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absences.

The Tenant said she did not have the tracking number and postal receipt as she has just moved and forgot to bring the receipts to the hearing. The Tenant said her mother assisted her in sending the registered mail package to the Landlord and the package was not returned so she believes the Landlord received it. The Tenant said the address on the package was the Landlord’s address as he lived on the main floor above their rental unit. The Tenant said she would go to the post office and get the tracking information and fax it into the Residential Tenancy Branch.

Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?

Background and Evidence

This tenancy started on March 1, 2014 as a month to month tenancy. The tenancy ended September 1, 2014. Rent was \$925.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$462.50 on February 21, 2014.

The Tenant said that she moved out of the rental unit on September 1, 2014 and gave the Landlord a forwarding address in writing on September 1, 2014. The Tenant said a move in condition inspection was done, and a move out condition inspection was done but no reports were completed. The Tenant continued to say that she asked the Landlord for their security deposit back and the Landlord has not returned it to date.

Analysis

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and
- (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I accept the Tenant's testimony that she gave the Landlord a forwarding address in writing on September 1, 2014. The Landlord did not repay security deposit to the Tenants within 15 days of the end of the tenancy or 15 days after receiving the Tenants' forwarding address in writing, nor did the Landlord apply for dispute resolution by September 15, 2014. Consequently I find for the Tenants and grant an order for double the security deposit of \$462.50 in the amount of $\$462.50 \times 2 = \925.00 .

As the Tenant was successful in this matter; pursuant to section 67 a monetary order for \$925.00 has been issued to the Tenants. This Monetary order represents double the security deposit in the amount of \$925.00.

Conclusion

I find in favour of the Tenants' monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$925.00 to the Tenants. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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: May 05, 2015

Residential Tenancy Branch

