



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested return of double the security deposit, compensation or made application for a monetary Order for return of 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 copies of the Application for Dispute Resolution and Notice of Hearing were personally given to the landlord on November 1, 2014. Service took place at the rental unit address at approximately 1 p.m. The tenant had her friend, H.L. with her as a witness.

I find that these documents were served on the day of personal delivery; November 1, 2014, in accordance with section 89 and 90 of the Act, however the landlord did not appear at the hearing.

Issue(s) to be Decided

Is the tenant entitled to return of double the security deposit paid as damage or loss under the Act?

Background and Evidence

The tenancy commenced on August 11, 2014. Rent was to be \$425.00 per month. The tenant paid a security deposit in the sum of \$212.50. The tenant provided a copy of her banking statement showing a withdrawal in the sum of \$212.50 on July 29, 2014 as evidence of payment made to the landlord.

The landlord lives at the same address as the rental unit. The tenant said that she does not believe he owns the home and that he may rent from another individual. The tenant was not sure what the arrangement is between her landlord and the property owner.

The parties had a disagreement and the tenant vacated at the end of August 2014.

The tenant supplied a copy of a letter issued to the landlord on September 18, 2014, requesting return of her security deposit. The letter provided a forwarding address. This letter was sent to the landlord via registered mail on September 30, 2015. The tenant supplied a copy of the Canada Post tracking information confirming the mail was accepted by the landlord on September 30, 2014.

The landlord has not returned the deposit.

Analysis

Despite being served with Notice of this hearing the landlord did not attend to make submissions on his status. Therefore, in the absence of any submission by the landlord, I find that the respondent named as a landlord meets the definition of landlord.

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.

There was no evidence before me that the landlord has returned the security deposit. He was provided with the forwarding address on September 30, 2014. Therefore, I find that the tenant is entitled to return of double the \$212.50 security deposit paid to the landlord.

As the tenants' application has merit, and I find 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 \$475.00. 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 return of double the \$212.50 security deposit paid.

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: June 23, 2015

Residential Tenancy Branch

