



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Damon Developments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction and Preliminary Matters

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

At the beginning of the hearing, there were two participants listed as attending the hearing; one participant was the tenant and another participant was the owner of the corporate landlord ("DD") listed in the style of cause page above. Although the tenant had originally listed DD as a respondent, in his amended application he removed DD and listed "KL" as respondent. The owner of DD submitted that KL was only an agent representing DD for rent collection and access to the residential property purposes, but not for the purpose of representing the landlord for landlord/tenant disputes such as this.

The owner confirmed that DD was listed on the written tenancy agreement as landlord, which was not provided into evidence by either party, and that he was the owner. Due to this information, I have amended the tenant's application to add DD as the landlord and to remove KL as a landlord/respondent and proceeded accordingly. Henceforth, the owner of DD will be referred to as landlord.

Thereafter the hearing process was explained to the tenant and the landlord and they were given an opportunity to ask questions about the hearing process.

The tenant submitted that he had sent in a document with his application as evidence, calling this document an agreement with the landlord. This document was not before me at the hearing, was not available in the Residential Tenancy Branch ("RTB") system, and the landlord denied receiving this document in the package received by the tenant.

As I was not convinced that the tenant had supplied this document into evidence to either the RTB or the respondent as required by Dispute Resolution Rules of Procedure (Rules) section 2.5 and 3.1, I have excluded this document from any consideration in this matter. I note that this document would have had no bearing on my Decision.

There was no issue as to the service of the application.

Thereafter the participants were provided the opportunity to present their evidence orally, respond to the other's evidence, and make submissions to me.

Issue(s) to be Decided

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

Background and Evidence

The undisputed evidence of the tenant was that this tenancy began on September 30, 2013, ended on December 19, 2014, when he vacated the rental unit, and that he paid a security deposit of \$525.00.

In support of his application listing a monetary claim of \$1050.00, which was made on January 20, 2015, the tenant submitted that he provided the landlord with his written forwarding address on the move-out inspection report on the last day of the tenancy, or December 19, 2014.

The tenant submitted that the landlord did eventually return the security deposit, but not until he received it on January 25, 2015, in a cheque dated January 21, 2015.

In response, the landlord did not dispute any of the tenant's submissions, but did state that he had no malice in not returning the security deposit earlier, and that the tenant was only seeking a double payment through a technicality. The landlord explained that he understood the tenancy was not over until December 31, 2014, due to there being a month-to-month tenancy, and that his company does normally writes cheques for the business on the 1st and 15th of each month.

Analysis

Under section 38(1) of the Act, a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the deposit within 15 days of the later of receiving the tenant's forwarding address in writing or at the end of a tenancy. 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.

Section 44(1)(d) of the Act provides that one way a tenancy ends is when a tenant vacates the rental unit, and in this case, the undisputed evidence shows that the tenant vacated the rental unit on December 19, 2014. The undisputed evidence also shows that the tenant provided his written forwarding address to the landlord on the last day of the tenancy, or December 19, 2014.

The landlord was therefore required to file an application claiming against the security deposit or return the security deposit in full within 15 days, or in this case, by January 3, 2015. Instead, the landlord did not return the security deposit until January 21, 2015.

I therefore find the tenant is entitled to a monetary award of \$525.00, which is the doubling portion required under section 38(6) of the Act.

I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of his monetary award of \$525.00, 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 upon 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 subject to recovery from the landlord.

Conclusion

The tenant's application is granted.

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: July 29, 2015

Residential Tenancy Branch

