



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and to recover the filing fee.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on December 17, 2014 with the original application and on March 7, 2015 with the amended application. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absences.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started on August 7, 2014 as a fixed term tenancy with an expiry date of October 31, 2014 and then continued on as a month to month tenancy. The tenancy ended November 30, 2014. Rent was \$1,250.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$625.00 on August 6, 2014. The Tenant said no move in or move out condition inspection reports were completed for this tenancy.

The Tenant said that she moved out of the rental unit on November 30, 2014 and gave the Landlord her forwarding address in writing on November 29, 2014. The Tenant continued to say that she cleaned the unit before leaving and she asked the Landlord for her security deposit back.

The Tenant said the Landlord has not given her security deposit back so she has made this application. The Tenant is asking for double the security deposit in the amount of \$1,250.00 pursuant to section 38 of the Act and the filing fee of \$50.00 for a total of \$1,300.00.

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 November 29, 2014. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution by December 15, 2014. Consequently I find for the Tenant and grant an order for double the security deposit of \$625.00 in the amount of $\$625.00 \times 2 = \$1,250.00$.

As the Tenant was successful in this matter, I also order the Tenant to recover the filing fee of \$50.00 from the Landlord. Pursuant to sections 38, 67, & 72 of the Act, a monetary order for \$1,300.00 has been issued to the Tenant. This Monetary order represents double the security deposit in the amount of \$1,250.00 and the filing fee of \$50.00.

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38, 67 and 72 of the Act, I grant a Monetary Order for \$1,300.00 to the Tenant. 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: July 27, 2015

Residential Tenancy Branch

