



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Shoreline Resort Condominiums
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSD and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of the security deposit and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

The Tenant stated that on March 19, 2015 the Application for Dispute Resolution, the Notice of Hearing, and documents the Tenant submitted to the Residential Tenancy Branch with the Application for Dispute Resolution were delivered to the Landlord's business office. The Agent for the Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

Issue(s) to be Decided

Is the Tenant entitled to the return of security deposit?

Background and Evidence

The Landlord and the Tenant agree that:

- the tenancy began in September of 2014;
- the Tenant agreed to pay rent of \$750.00;
- a security deposit of \$375.00 was paid;
- this tenancy ended on February 07, 2015 ;
- the Tenant did not authorize the Landlord to retain any portion of the security deposit;
- the Landlord did not file an Application for Dispute Resolution seeking to retain the Tenant's security deposit; and
- the Landlord mailed the Tenant a cheque for \$20.00, dated February 24, 2015, which represented a partial return of the security deposit.

The Tenant stated that on February 07, 2015 she provided her forwarding address to a person who was acting on behalf of the Landlord at that time, and that this individual typed the address into the Landlord's computer. The Agent for the Landlord, who was not acting on behalf of the Landlord on February 07, 2015, acknowledged that a forwarding address was entered into the Landlord's electronic records sometime prior to February 10, 2015.

I note that neither party was permitted to testify regarding the condition of the rental unit at the end of the tenancy. The Landlord did not file an Application for Dispute Resolution seeking compensation for the condition of the rental unit and that matter is, therefore, not relevant to the issue in dispute at these proceedings.

Analysis

On the basis of the undisputed evidence, I find that:

- the Tenant paid a security deposit of \$375.00;
- the Landlord received a forwarding address, in writing, on February 07, 2015; and
- the tenancy ended on February 07, 2015.

Section 38(1) of the *Residential Tenancy Act (Act)* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit or make an application for dispute resolution claiming against the deposits. I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not repaid the full security deposit or filed an Application for Dispute Resolution and more than 15 days has passed since the tenancy ended and the forwarding address was received.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1) of the *Act*, the Landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit.

I find that the Tenant's Application for Dispute Resolution has merit and that the Tenant is entitled to recover the fee paid to file this Application for Dispute Resolution.

Conclusion

The Tenant has established a monetary claim of \$800.00, which is comprised of double the security deposit and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution. This claim must be reduced by the \$20.00 that was refund to the

Tenant in February of 2015.

On the basis of these calculations I grant the Tenant a monetary Order of \$780.00. In the event the Landlord does not voluntarily 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.

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: August 26, 2015

Residential Tenancy Branch

