



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0837454 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *MNSD, FF*

Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of the security deposit. The tenant also made a verbal request to amend her application to include the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on April 30, 2015, to the address as provided by the landlord on the tenancy agreement. The tenant filed a receipt with a tracking number. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be Decided

Is the tenant entitled to the return of the security deposit and the filing fee?

Background and Evidence

Section 60 of the *Residential Tenancy Act* speaks to the latest time that an application for dispute resolution can be made. Section 60(1) states that an application for dispute resolution must be filed within two years of the date that the tenancy ended. If an application is not made within the two year period, a claim arising under this *Act* or the tenancy agreement in relation to the tenancy ceases to exist.

The tenancy began on May 01, 2012 and ended on April 30, 2013. In this case, the tenant filed her application on April 24, 2015 which falls within this two year time period.

The monthly rent was \$1,100.00. Prior to moving in, the tenant paid a security deposit of \$550.00. The tenant filed a copy of the tenancy agreement into evidence. The tenant testified that the parties conducted a move out inspection on April 30, 2013 and the tenant provided the landlord with her forwarding address on that date.

The tenant testified that she followed up with a call to the landlord who told her he was busy and would call back and never did. Further attempts to contact the landlord failed as the landlord's voice mail box was full. The tenant filed copies of several text messages to the landlord which went unanswered. The last text message from the landlord was on April 30, 2013 regarding the move out inspection.

Analysis

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

Residential Tenancy Policy Guideline#17 addresses the return of the security deposit through arbitration. The guideline states that unless the tenant has specifically waived the doubling of the deposit, either on an application for the return of the deposit or at the hearing, the Arbitrator will order the return of double the deposit.

The landlord currently holds a security deposit of \$550.00 and is obligated under section 38 to return double this amount (\$1,150.00). Since the tenant has proven her claim, she is also entitled to the recovery of the filing fee (\$50.00). I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$1,150.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court

Conclusion

I grant the tenant a monetary order for **\$1,150.00**.

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: September 30, 2015

Residential Tenancy Branch

