



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, 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, a monetary Order for money owed or compensation for damage or loss, and to recover the filing fee from the Landlord for the cost of filing this application.

The Tenant stated that on April 20, 2015 the Application for Dispute Resolution and the Notice of Hearing were sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Landlord did not appear at the hearing.

On June 03, 2015 the Tenant submitted documents to the Residential Tenancy Branch, which the Tenant wishes to rely upon as evidence. The Tenant stated that these documents were served to the Landlord by registered mail on June 03, 2015. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 88 of the *Act* and they were accepted as evidence for these proceedings.

On August 19, 2015 the Tenant submitted documents to the Residential Tenancy Branch. The Tenant stated that these documents were not served to the Landlord. As the documents were not served to the Landlord they were not considered as evidence for these proceedings.

Issue(s) to be Decided

Is the Tenant entitled to the return of security deposit?

Background and Evidence

The Tenant stated that:

- the tenancy began on June 01, 2015;
- a security deposit of \$675.00 was paid;
- the tenancy ended on March 31, 2015;
- that the Tenant provided a forwarding address, by text message; after the tenancy ended;
- the Landlord and the Tenant communicated via text message on several occasions;
- the Landlord responded to the text message the Tenant sent in regards to the forwarding address;
- the Tenant did not authorize the Landlord to retain the security deposit;
- the Landlord did not return any portion of the security deposit; and
- the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

The Tenant submitted copies of several text messages exchanged between the parties, including a text message, dated April 01, 2015, in which the Tenant provided the Landlord with her forwarding address.

Analysis

On the basis of the undisputed evidence I find that this tenancy ended on March 31, 2015 and that the Tenant sent her forwarding address to the Landlord, via text message, on April 01, 2015. The Tenant submitted digital images of the text messages exchanged between the parties and it appears, based on the Landlord's response to the Tenant's text messages, that the Landlord received the forwarding address that was sent by text message.

Section 38(1) of the *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. On the basis of the undisputed evidence, I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not repaid the 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 for filing this Application for Dispute Resolution.

Conclusion

The Tenant has established a monetary claim of \$1,400.00, which is comprised of double the security deposit, and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be 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: September 01, 2015

Residential Tenancy Branch

