



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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.

The Tenant stated that on May 04, 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.

Issue(s) to be Decided

Is the Tenant entitled to the return of security deposit?

Background and Evidence

The Tenant stated that:

- this tenancy began on December 01, 2014;
- a security deposit of \$321.00 was paid;
- the tenancy ended on March 31, 2015;
- that the tenant provided a forwarding address by writing it on a piece of paper and personally handing it to the Landlord;
- 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 claiming against the security deposit; and
- on April 16, 2015 the Landlord mailed \$200.00 to the Tenant's forwarding address, which represented a partial refund of her security deposit.

In the "Details of Dispute" the Tenant has indicated that double the security deposit is \$620.00, which would imply that a security deposit of \$310.00 was paid. This discrepancy was not noted during the hearing and the Tenant did not, therefore, offer an explanation for the discrepancy.

Analysis

I find that the Tenant provided contradictory evidence regarding the amount of the security deposit when she testified at the hearing that she paid a security deposit of \$321.00 and indicated in her Application for Dispute Resolution that \$310.00 was paid. On the basis of the evidence submitted, I find that the Tenant paid a security deposit of at least \$310.00.

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 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.

As the Tenant's Application for Dispute Resolution has merit, I find that the Landlord must compensate the Tenant for the cost of filing this Application.

Conclusion

The Tenant has established a monetary claim of \$670.00, 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 \$200.00 paid to the Tenant on April 16, 2015.

On the basis of these calculations, I grant a monetary Order for \$470.00. In the event the Landlord does not voluntarily comply with this Order, it may be served on the Tenant, 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: October 06, 2015

Residential Tenancy Branch

