



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD; MNDC; FF

Introduction

The Tenant is applying for return of the security deposit; compensation for damage or loss under the Act, regulation or tenancy agreement; and recovery of the cost of the filing fee from the Landlord.

The Tenant provided affirmed testimony at the Hearing.

The Tenant testified that he mailed the Notice of Hearing documents and copies of his documentary evidence to the Landlord, by registered mail, on July 24, 2015. The Tenant provided a copy of the registered mail receipt and tracking number in evidence.

Based on the Tenant's affirmed testimony and documentary evidence, I find that the Landlord was duly served with the Notice of Hearing documents and copies of the Tenant's evidence package. Despite being served with the documents, the Landlord did not sign into the Hearing, which remained open for 15 minutes, and the Hearing continued in her absence.

Issue to be Decided

Is the Tenant entitled to a monetary award pursuant to the provisions of Section 38 of the Act?

Background and Evidence

The Tenant gave the following affirmed testimony:

The tenancy ended on June 30, 2015. The Tenant paid a security deposit in the amount of \$500.00 at the beginning of the tenancy.

The Tenant testified that he did not give the Landlord permission to retain any of his security deposit at the end of the tenancy. He stated that he gave the Landlord written notification of his forwarding address on June 28, 2015, by handing the letter to the Landlord. A copy of the letter was provided in evidence.

The Tenant testified that the Landlord sent him a money order in the amount of \$500.00 to his forwarding address. A copy of the money order was provided in evidence, dated August 4, 2015.

Analysis

A security deposit is held in a form of trust by a landlord for a tenant, to be applied in accordance with the provisions of the Act. A landlord may not arbitrarily decide whether or not to keep the security deposit.

The Act requires a tenant to provide a forwarding address within one year of the end of the tenancy date in order to be entitled to return of the security deposit. It does not require the forwarding address to be the tenant's residential address.

Section 38(1) of the Act provides that (unless a landlord has the tenant's consent to retain a portion of the security deposit) at the end of the tenancy and after receipt of a tenant's forwarding address in writing, a landlord has 15 days to either:

1. repay the security deposit in full, together with any accrued interest; or
2. make an application for dispute resolution claiming against the security deposit.

I accept that the Landlord did not file an application for dispute resolution against the security deposit, or return the full amount of the security deposit within 15 days of receipt of the Tenant's forwarding address in writing.

Section 38(6) of the Act provides that if a landlord does not comply with Section 38(1) of the Act, the landlord **must** pay the tenant double the amount of the security deposit.

Therefore, I find that the Tenant is entitled to a monetary order for double the amount of the security deposit, less the amount the Landlord returned ($\$500.00 \times 2 - \$500.00 =$ **\$500.00**).

The Tenant's Application had merit and I find that he is entitled to recover the cost of the **\$50.00** filing fee from the Landlord.

Conclusion

I hereby grant the Tenant a Monetary Order in the amount of **\$550.00** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: January 11, 2016

Residential Tenancy Branch

