



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This was an application by the tenant for a monetary order for the return of her security deposit including double the deposit amount. The hearing was conducted by conference call. The tenant called in and participated in the hearing the landlords did not attend, although they were served with the application and Notice of Hearing sent by registered mail to the landlords' address for service on October 1, 2015. The landlords did not pick up the registered mail. It was returned to the tenant and the tenant then hand delivered it to the mail box at the rental unit in November, 2015. Despite the landlords failure to pick up their registered mail, pursuant to section 90 of the *Residential Tenancy Act*, they are deemed to have received the application and Notice of Hearing on October 6, 2015, the fifth day after it was mailed to them.

Issue(s) to be Decided

is the tenant entitled to the return of her security deposit including double the amount?

Background and Evidence

The rental unit is a residence in Maple Ridge. The tenancy began July 1, 2008. The tenant paid a security deposit of \$975.00 at the start of the tenancy. The tenant gave notice to move out at the end of August, 2015, but she signed a new agreement to extend the tenancy for another month until October 1, 2015. She moved out on September 15, 2015 and paid rent for half of September. The tenant testified that she thoroughly cleaned the rental unit and had the carpets professionally cleaned at a cost of \$230.00. The tenant met the landlords at the rental unit on September 15, 2015. The landlord said she was impressed with the cleanliness of the rental unit. The landlord did not complete a condition inspection report, but the landlord did receive the tenant's forwarding address and wrote it down.

On September 28, 2015 the tenant received a telephone message from the landlord who said she was returning the tenant's deposit less the amount of \$410.00 said to have been deducted for a deodorizing carpet cleaning. The tenant left a voice message in reply wherein she said that she did not agree to pay the landlord's charge for a second carpet cleaning. On September 30, 2015 the tenant received a cheque from the

landlord in the amount of \$561.35. The cheque was described as a: "Damage Deposit Refund". The tenant refused to negotiate the cheque because she did not agree to accept the amount as a refund of the security deposit and she has not cashed the cheque.

Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

I am satisfied that the tenant provided the landlord with her forwarding address in writing, and I find that the tenant served the landlord with documents notifying the landlord of this application as required by the *Act*.

The tenant did not give her written consent to the landlord to make any deductions from her deposit and the landlord did not apply for dispute resolution to make a claim against the deposit. The tenant's security deposit was not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the doubling provision of section 38(6) therefore applies. I grant the tenant's application and award her the sum of \$1,957.35, being double the original deposit amount of \$975.00 plus accrued interest on the original deposit in the amount of \$7.35. The tenant is entitled to recover the \$50.00 filing fee for this application for a total claim of \$2,007.35 and I grant the tenant a monetary order against the landlords in the said amount. This order may be registered in the 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: April 20, 2016

Residential Tenancy Branch