



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding David Burr Ltd. Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss, for the return of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on, or about, April 04, 2016 the Application for Dispute Resolution and the Notice of Hearing were personally delivered to the Landlord's business office. The Agent for the Landlord stated that these documents were delivered sometime after April 05, 2016.

On April 04, 2016 the Tenant submitted four pages of evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was personally delivered to the Landlord's business office on April 05, 2016. The Agent for the Landlord acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

The Agent for the Landlord stated that the Landlord submitted 5 pages of evidence to the Residential Tenancy Branch on April 21, 2016. He stated that this evidence was mailed to the Tenant on April 21, 2016. The Tenant acknowledged receipt of this evidence.

The parties were advised that I was not in possession of the documents submitted to the Residential Tenancy Branch by the Landlord. The Agent for the Landlord was advised that during the hearing he may refer to the documents that were submitted and if it appears they are relevant to the issues in dispute, the hearing will be adjourned to provide the Landlord the opportunity to re-serve the documents. At the end of the hearing the Agent for the Landlord declined the opportunity for an adjournment for the purpose of re-serving the documents.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

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 in June of 2014;
- a condition inspection report was completed at the start of the tenancy;
- a security deposit of \$347.50 was paid;
- the tenancy ended on January 31, 2016;
- the rental unit was not jointly inspected at the end of the tenancy;
- the Landlord did not schedule a time to complete a final inspection of the rental unit, in writing;
- on January 31, 2016 the Tenant provided a forwarding address, in writing, by sliding it under the manager's door;
- the Tenant did not authorize the Landlord to retain any portion of 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.

Analysis:

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 file 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 paid to file this Application.

Conclusion:

The Tenant has established a monetary claim of \$795.00, which is comprised of double the security deposit and \$100.00 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 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: August 17, 2016

Residential Tenancy Branch