



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, OLC, FF

Introduction

This hearing was scheduled in response to the tenants' Application for Dispute Resolution, in which the tenants have requested a monetary order for return of the security deposit, an order the landlord comply with the Act by returning the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenants provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the landlord via registered mail on June 28, 2016. The tenants used the address indicated on the application. The tenants rented a suite in the lower level of the home at that address; the landlord resides in the upper level. A Canada Post tracking number and receipt was provided as evidence of service. The mail was returned, marked by Canada Post as unclaimed.

A party cannot avoid service by failing to claim registered mail. Therefore, I find that these documents are deemed to have been served on the fifth day after mailing, in accordance with section 89 and 90 of the Act.

The landlord did not attend the hearing.

Issue(s) to be Decided

Are the tenants entitled to return of the security deposit paid?

Background and Evidence

The tenancy commenced in February 2013. A security deposit in the sum of \$450.00 was paid. A tenancy agreement was not signed.

The landlord did not schedule a move-in or move-out condition inspection report; although the tenants created a record of the state of the rental unit.

The tenants vacated the rental unit on May 27, 2016; rent was paid to the end of May 2016.

The tenants served the landlord with their forwarding address by way of a letter dated and mailed on June 10, 2016. A copy of the letter was supplied as evidence. The letter indicates that the tenants are giving the landlord a final opportunity to return the deposit before legal action is taken.

The tenants have yet to receive the deposit. The tenants said that they understand they may be entitled to return of double the security deposit.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

I find that the landlord is deemed to have received the tenants' written forwarding address effective June 15, 2016; five days after mailing, in accordance with section 90 of the Act.

I have no evidence before me that that landlord has repaid the deposit or submitted a claim against the deposit, in accordance with the Act.

Therefore, I find pursuant to section 38(6) of the Act that the tenants are entitled to return of double the \$450.00 deposit paid to the landlord.

Based on these determinations I grant the tenants a monetary order in the sum of \$900.00. In the event that the landlord does not comply with this order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an order of that Court.

There is no filing fee.

Conclusion

The tenants are entitled to return of double the security deposit.

This decision is final and binding and 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: December 13, 2016

Residential Tenancy Branch