



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 6511 Sussex Heights Development Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, OLC, FF

Introduction

This was a hearing with respect to the tenants' application for the return of their security deposit, including double the amount. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord did not attend although served with the application and Notice of Hearing sent by registered mail on June 23, 2016. The tenant submitted postal records showing that the registered mail was accepted and signed for on June 24, 2016.

Issue(s) to be Decided

Are the tenants entitled to the return of their security deposit including double the amount?

Background and Evidence

The rental unit is an apartment in Burnaby. The tenancy began in December, 2015. The monthly rent was \$1,095.00. The tenants paid a security deposit of \$547.50 on November 19, 2015. The tenant submitted a copy of the receipt from the landlord acknowledging the payment.

The tenant testified that a new owner purchased the rental property in March, 2016 and took over management of the rental property. The tenant paid rent to the new landlord

for the months of April and May, 2016. The tenant gave the landlord a written notice dated April 30, 2016 stating that the tenants would move out of the rental unit on May 31, 2016. The tenant provided her forwarding address in the letter. She participated in a move-out inspection with the landlord's representative on May 31, 2016 and she submitted a copy of the inspection report as part of her documentary evidence. She also provided her forwarding address on the condition inspection report.

The tenant testified that she has requested that the landlord return her deposit and the landlord's representative told her that they do not have a record that she paid a deposit. The landlord has ignored the tenant's requests and has not responded to the application for dispute resolution.

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 tenants provided the landlord with their forwarding address in writing on two occasions, first when the April 30th Notice was given and again when the condition inspection form was completed on May 31, 2016. I find that the tenants served the landlord with documents notifying the landlord of this application as required by the *Act* by sending them by registered mail, received by the landlord on June 24, 2016.

The tenants' 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. The landlord named in this proceeding became responsible for the security deposit when it purchased the rental property subject to existing tenancies; the

tenants' rent payments to the landlord for April and May establish that it became responsible for the security deposit obligations as landlord. I grant the tenants' application and award them the sum of \$1,095.00. The tenants' are entitled to recover the \$100.00 filing fee for this application for a total claim of \$1,195.00 and I grant the tenants a monetary order against the landlord in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that Court.

Conclusion

The tenants' claim is allowed and a monetary order granted in the amount stated.

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 05, 2017

Residential Tenancy Branch